

SENATE BILL No. 499

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-9-5; IC 36-1.

Synopsis: Home rule powers of certain units. Gives Indianapolis-Marion County and second class cities (units) additional home rule powers. Provides that a unit may reject statutory restrictions otherwise applicable to the unit and adopt ordinances for governance instead of the rejected statutes. Provides that certain statutes may not be rejected by a unit. Allows a unit to file for bankruptcy under federal law.

Effective: July 1, 2015.

Delph

January 14, 2015, read first time and referred to Committee on Tax & Fiscal Policy.



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. 499

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 3-10-9-5 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2015]: Sec. 5. A local public question may not
- 3 be placed on the ballot at an election unless the placement of the local
- 4 public question on the ballot at the election is expressly authorized by
- 5 statute. **A unit to which IC 36-1-3.1 applies may place a local public**
- 6 **question on the ballot at an election without any statutory**
- 7 **authorization.**
- 8 SECTION 2. IC 36-1-3-6, AS AMENDED BY P.L.77-2014,
- 9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2015]: Sec. 6. (a) If there is a constitutional or statutory
- 11 provision requiring a specific manner for exercising a power, a unit
- 12 wanting to exercise the power must do so in that manner. **However, a**
- 13 **unit to which IC 36-1-3.1 applies may reject a statute under**
- 14 **IC 36-1-3.1.**
- 15 (b) If there is no constitutional or statutory provision requiring a
- 16 specific manner for exercising a power, a unit wanting to exercise the



- 1 power must either:
 2 (1) if the unit is a county or municipality, adopt an ordinance
 3 prescribing a specific manner for exercising the power;
 4 (2) if the unit is a township, adopt a resolution prescribing a
 5 specific manner for exercising the power; or
 6 (3) comply with a statutory provision permitting a specific manner
 7 for exercising the power.
 8 (c) An ordinance under subsection (b)(1) must be adopted as
 9 follows:
 10 (1) In a municipality, by the legislative body of the municipality.
 11 (2) In a county subject to IC 36-2-2.5, IC 36-2-3.5, or IC 36-3-1,
 12 by the legislative body of the county.
 13 (3) In any other county, by the executive of the county.
 14 (d) A resolution under subsection (b)(2) must be adopted by the
 15 legislative body of the township.
 16 SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,
 17 SECTION 148, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Subject to subsection (b), a
 19 unit does not have the following:
 20 (1) The power to condition or limit its civil liability, except as
 21 expressly granted by statute.
 22 (2) The power to prescribe the law governing civil actions
 23 between private persons.
 24 (3) The power to impose duties on another political subdivision,
 25 except as expressly granted by statute.
 26 (4) The power to impose a tax, except as expressly granted by
 27 statute.
 28 (5) The power to impose a license fee greater than that reasonably
 29 related to the administrative cost of exercising a regulatory power.
 30 (6) The power to impose a service charge or user fee greater than
 31 that reasonably related to reasonable and just rates and charges
 32 for services.
 33 (7) The power to regulate conduct that is regulated by a state
 34 agency, except as expressly granted by statute.
 35 (8) The power to prescribe a penalty for conduct constituting a
 36 crime or infraction under statute.
 37 (9) The power to prescribe a penalty of imprisonment for an
 38 ordinance violation.
 39 (10) The power to prescribe a penalty of a fine as follows:
 40 (A) More than ten thousand dollars (\$10,000) for the violation
 41 of an ordinance or a regulation concerning air emissions
 42 adopted by a county that has received approval to establish an



1 air permit program under IC 13-17-12-6.

2 (B) For a violation of any other ordinance:

3 (i) more than two thousand five hundred dollars (\$2,500) for
4 a first violation of the ordinance; and

5 (ii) except as provided in subsection (c), more than seven
6 thousand five hundred dollars (\$7,500) for a second or
7 subsequent violation of the ordinance.

8 (11) The power to invest money, except as expressly granted by
9 statute.

10 (12) The power to order or conduct an election, except as
11 expressly granted by statute.

12 (b) A township does not have the following, except as expressly
13 granted by statute:

14 (1) The power to require a license or impose a license fee.

15 (2) The power to impose a service charge or user fee.

16 (3) The power to prescribe a penalty.

17 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
18 ordinance that regulates traffic or parking.

19 **(d) This section does not apply to a unit to which IC 36-1-3.1**
20 **applies.**

21 SECTION 4. IC 36-1-3.1 IS ADDED TO THE INDIANA CODE
22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2015]:

24 **Chapter 3.1. Complete Home Rule**

25 **Sec. 1. This chapter applies only to the following:**

26 (1) A consolidated city and county.

27 (2) A second class city.

28 **Sec. 2. This chapter does not apply to a township located in a**
29 **city or county described in section 1(1) or 1(2) of this chapter.**

30 **Sec. 3. As used in this chapter, "covered unit" means an entity**
31 **listed in section 1 of this chapter.**

32 **Sec. 4. (a) The home rule powers of a covered unit include those**
33 **set forth in IC 36-1-3 and the following supplemental powers:**

34 (1) The power to impose a special assessment, an income tax,
35 or an ad valorem property tax. However, a covered unit may
36 not impose a tax on property that is statutorily exempt from
37 taxation. Any additional ad valorem property taxes are
38 subject to the covered unit's maximum levy limits under
39 IC 6-1.1-18.5.

40 (2) The power to create a special taxing district or special
41 service district.

42 (3) The power to establish quotas for the issuance of alcoholic



1 beverage permits in the covered unit.

2 (4) The power to establish cumulative funds, capital projects
3 funds, sinking funds, or debt service funds and impose a tax
4 for these funds.

5 (5) The power to conduct a local public question.

6 (b) The omission of a power from the list in subsection (a) does
7 not imply that a covered unit lacks that power under this chapter.

8 Sec. 5. This chapter constitutes full and complete authority for
9 a covered unit to file a petition for bankruptcy protection under
10 Chapter 9 of Title 11 of the United States Code.

11 Sec. 6. The department of local government finance shall adjust
12 maximum permissible ad valorem property tax levies, tax rates,
13 and budgets of the covered unit as necessary to account for the
14 covered unit's exercise of power under this chapter.

15 Sec. 7. Except as provided in sections 8 and 11 of this chapter,
16 a covered unit may transact all business of the covered unit and
17 perform all powers of local legislation and administration that the
18 covered unit considers necessary.

19 Sec. 8. A covered unit does not have the following powers:

20 (1) The power to condition or limit its civil liability, except as
21 expressly granted by statute.

22 (2) The power to prescribe the law governing civil actions
23 between private persons.

24 (3) The power to impose duties on another political
25 subdivision, except as expressly granted by statute.

26 (4) The power to impose a license fee greater than that
27 reasonably related to the administrative cost of exercising a
28 regulatory power.

29 (5) The power to impose a service charge or user fee greater
30 than that reasonably related to reasonable and just rates and
31 charges for services.

32 (6) The power to regulate conduct that is regulated by a state
33 agency, except as expressly granted by statute.

34 (7) The power to prescribe a penalty for conduct constituting
35 a crime or infraction under statute.

36 (8) The power to prescribe a penalty of imprisonment for an
37 ordinance violation.

38 (9) The power to prescribe a penalty of a fine as follows:

39 (A) More than ten thousand dollars (\$10,000) for the
40 violation of an ordinance or a regulation concerning air
41 emissions adopted by a county that has received approval
42 to establish an air permit program under IC 13-17-12-6.



- 1 **(B) The following applies to a violation of any other**
 2 **ordinance:**
- 3 **(i) More than two thousand five hundred dollars (\$2,500)**
 4 **for a first violation of the ordinance.**
- 5 **(ii) This item does not apply to the violation of an**
 6 **ordinance that regulates traffic or parking. More than**
 7 **seven thousand five hundred dollars (\$7,500) for a**
 8 **second or subsequent violation of the ordinance.**
- 9 **(10) The power to order or conduct an election, except as**
 10 **expressly granted by statute.**
- 11 **Sec. 9. A covered unit shall comply with a statute that requires**
 12 **a specific manner for the covered unit to exercise a power, unless**
 13 **the covered unit adopts an ordinance that:**
- 14 **(1) expressly rejects the statute in its entirety; and**
 15 **(2) prescribes a specific manner for the covered unit to**
 16 **exercise the power.**
- 17 **Sec. 10. This chapter does not prohibit the state from requiring**
 18 **a covered unit to comply with a statute or rule as a condition of**
 19 **receiving a state grant or loan.**
- 20 **Sec. 11. Notwithstanding section 9 of this chapter, a covered unit**
 21 **may not reject the following:**
- 22 **(1) This chapter and IC 36-1-3.**
 23 **(2) Statutes and rules concerning courts.**
 24 **(3) Statutes prescribing limits on indebtedness.**
 25 **(4) IC 3 and all other statutes concerning elections, election**
 26 **districts, qualification of candidates, and vacancies. However,**
 27 **a covered unit may conduct a local public question on any**
 28 **issue without statutory authorization.**
 29 **(5) IC 36-1-5 and IC 36-1-6 concerning codification and**
 30 **enforcement of ordinances.**
 31 **(6) Statutes and rules concerning issuing bonds, notes,**
 32 **debentures, or other obligations by the covered unit or the**
 33 **entering into of lease rental agreements.**
 34 **(7) Statutes and rules concerning the establishment, licensing,**
 35 **and administration of hospitals and other health care**
 36 **facilities, including:**
- 37 **(A) IC 16-21 concerning hospitals;**
 38 **(B) IC 16-22 concerning county hospitals;**
 39 **(C) IC 16-23 concerning municipal and other types of**
 40 **hospitals; and**
 41 **(D) IC 16-23.5 concerning medical centers and Indiana**
 42 **University hospitals.**



- 1 (8) IC 36-7-3 and IC 36-7-4 concerning land use, planning,
2 and zoning.
- 3 (9) Statutes and rules concerning:
- 4 (A) assessment of real and personal property;
- 5 (B) imposition and collection of income, real property, and
6 personal property taxes; and
7 (C) tax appeals.
- 8 (10) Statutes and rules concerning local government
9 reorganization, including IC 36-1.5-1 and IC 36-4-2-11.
- 10 (11) Statutes concerning annexation and disannexation of
11 territory, including IC 36-3-3 or IC 36-4-3.
- 12 (12) Statutes concerning eminent domain.
- 13 (13) Statutes regarding access to meetings and records of the
14 unit, including IC 5-14-1.5 and IC 5-14-3.
- 15 (14) Statutes and rules concerning publication of notice,
16 including IC 5-3-1.
- 17 (15) Statutes and rules concerning preservation of public
18 records, including IC 5-15.
- 19 (16) Statutes and rules concerning interlocal cooperation
20 agreements, including IC 36-1-7.
- 21 (17) Statutes concerning drainage law, including IC 36-9-17.
- 22 (18) Statutes and rules concerning accounting for public
23 funds, including IC 5-11-1.
- 24 (19) Statutes and rules concerning public safety
25 communications, including IC 36-8-15, IC 36-8-16.7, and
26 IC 36-8-20.
- 27 (20) IC 36-8-21.5 concerning severe weather warning sirens.
- 28 (21) Statutes and rules concerning establishment, licensing,
29 and administration of county homes.
- 30 (22) Statutes concerning the powers, duties, and
31 responsibilities of city and county officers under IC 36-2,
32 IC 36-3, and IC 36-4.
- 33 (23) Statutes concerning the classification of municipalities
34 under IC 36-4-1.
- 35 (24) Statutes concerning impeachment and removal from
36 office.
- 37 (25) Statutes and rules concerning fire and building safety.
- 38 (26) Statutes and rules concerning pensions of public
39 employees.
- 40 (27) Statutes and rules imposing criminal and civil liability for
41 acts of a public official or employee of the unit.
- 42 (28) Statutes and rules concerning public works and public



1 **purchasing.**

