



February 22, 2001

HOUSE BILL No. 1503

DIGEST OF HB 1503 (Updated February 21, 2001 12:03 PM - DI 94)

Citations Affected: IC 5-14; IC 6-1.1; IC 6-3.5; IC 36-2; IC 36-4.

Synopsis: Local government matters. Allows, rather than requires, a public agency to waive a fee for providing an electronic map if the electronic map will be used for a noncommercial purpose. Extends the 3% portion of the Pulaski County adjusted gross income tax dedicated for a jail and juvenile justice center for an additional 4 years. Allows a county executive to adopt an ordinance approving the payment of certain lawful county expenses, and requires the payment of the expenses to be published. Changes from August 20 to September 20 the date by which employee compensation must be fixed by a third class city. Repeals a requirement that the county recorder retain a real estate sales disclosure form for five years.

Effective: July 1, 2001.

**Ayres, Stevenson, Aguilera,
Goeglein**

January 11, 2001, read first time and referred to Committee on Local Government.
February 21, 2001, amended, reported — Do Pass.

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HB 1503—LS 7016/DI 87+



February 22, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1503

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-8, AS AMENDED BY P.L.151-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 8. (a) For the purposes of this section, "state
4 agency" has the meaning set forth in IC 4-13-1-1.
5 (b) Except as provided in this section, a public agency may not
6 charge any fee under this chapter:
7 (1) to inspect a public record; or
8 (2) to search for, examine, or review a record to determine
9 whether the record may be disclosed.
10 (c) The Indiana department of administration shall establish a
11 uniform copying fee for the copying of one (1) page of a standard-sized
12 document by state agencies. The fee may not exceed the average cost
13 of copying records by state agencies or ten cents (\$0.10) per page,
14 whichever is greater. A state agency may not collect more than the
15 uniform copying fee for providing a copy of a public record. However,
16 a state agency shall establish and collect a reasonable fee for copying
17 nonstandard-sized documents.

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1 (d) This subsection applies to a public agency that is not a state
 2 agency. The fiscal body (as defined in IC 36-1-2-6) of the public
 3 agency, or the governing body, if there is no fiscal body, shall establish
 4 a fee schedule for the certification, copying, or facsimile machine
 5 transmission of documents. The fee may not exceed the actual cost of
 6 certifying, copying, or facsimile transmission of the document by the
 7 agency and the fee must be uniform throughout the public agency and
 8 uniform to all purchasers. As used in this subsection, "actual cost"
 9 means the cost of paper and the per-page cost for use of copying or
 10 facsimile equipment and does not include labor costs or overhead costs.

11 (e) If:

12 (1) a person is entitled to a copy of a public record under this
 13 chapter; and

14 (2) the public agency which is in possession of the record has
 15 reasonable access to a machine capable of reproducing the public
 16 record;

17 the public agency must provide at least one (1) copy of the public
 18 record to the person. However, if a public agency does not have
 19 reasonable access to a machine capable of reproducing the record or if
 20 the person cannot reproduce the record by use of enhanced access
 21 under section 3.5 of this chapter, the person is only entitled to inspect
 22 and manually transcribe the record. A public agency may require that
 23 the payment for copying costs be made in advance.

24 (f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public
 25 agency shall collect any certification, copying, facsimile machine
 26 transmission, or search fee that is specified by statute or is ordered by
 27 a court.

28 (g) Except as provided by subsection (h), for providing a duplicate
 29 of a computer tape, computer disc, microfilm, or similar or analogous
 30 record system containing information owned by the public agency or
 31 entrusted to it, a public agency may charge a fee, uniform to all
 32 purchasers, that does not exceed the sum of the following:

33 (1) The agency's direct cost of supplying the information in that
 34 form.

35 (2) The standard cost for selling the same information to the
 36 public in the form of a publication if the agency has published the
 37 information and made the publication available for sale.

38 (3) In the case of the legislative services agency, a reasonable
 39 percentage of the agency's direct cost of maintaining the system
 40 in which the information is stored. However, the amount charged
 41 by the legislative services agency under this subdivision may not
 42 exceed the sum of the amounts it may charge under subdivisions

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1 (1) and (2).

2 (h) This subsection applies to the fee charged by a public agency for
3 providing enhanced access to a public record. A public agency may
4 charge any reasonable fee agreed on in the contract under section 3.5
5 of this chapter for providing enhanced access to public records.

6 (i) This subsection applies to the fee charged by a public agency for
7 permitting a governmental entity to inspect public records by means of
8 an electronic device. A public agency may charge any reasonable fee
9 for the inspection of public records under this subsection or the public
10 agency may waive any fee for the inspection.

11 (j) Except as provided in subsection (k), a public agency may charge
12 a fee, uniform to all purchasers, for providing an electronic map that is
13 based upon a reasonable percentage of the agency's direct cost of
14 maintaining, upgrading, and enhancing the electronic map and for the
15 direct cost of supplying the electronic map in the form requested by the
16 purchaser. If the public agency is within a political subdivision having
17 a fiscal body, the fee is subject to the approval of the fiscal body of the
18 political subdivision.

19 (k) The fee charged by a public agency under subsection (j) to cover
20 costs for maintaining, upgrading, and enhancing an electronic map
21 ~~shall~~ **may** be waived by the public agency if the electronic map for
22 which the fee is charged will be used for a noncommercial purpose,
23 including the following:

- 24 (1) Public agency program support.
- 25 (2) Nonprofit activities.
- 26 (3) Journalism.
- 27 (4) Academic research.

28 SECTION 2. IC 6-3.5-1.1-3.5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) This section
30 applies only to a county having a population of more than twelve
31 thousand six hundred (12,600) but less than thirteen thousand (13,000).

32 (b) The county council of a county described in subsection (a) may,
33 by ordinance, determine that additional county adjusted gross income
34 tax revenue is needed in the county to fund the operation and
35 maintenance of a jail and justice center.

36 (c) Notwithstanding section 2 of this chapter, if the county council
37 adopts an ordinance under subsection (b), the county council may
38 impose the county adjusted gross income tax at a rate of one and
39 three-tenths percent (1.3%) on adjusted gross income. However, a
40 county may impose the county adjusted gross income tax at a rate of
41 one and three-tenths percent (1.3%) for only ~~four (4)~~ **eight (8)** years.
42 After the county has imposed the county adjusted gross income tax at



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1 a rate of one and three-tenths percent (1.3%) for ~~four (4)~~ **eight (8)**
 2 years, the rate is reduced to one percent (1%). If the county council
 3 imposes the county adjusted gross income tax at a rate of one and
 4 three-tenths percent (1.3%), the county council may decrease the rate
 5 or rescind the tax in the manner provided under this chapter.

6 (d) If a county imposes the county adjusted gross income tax at a
 7 rate of one and three-tenths percent (1.3%) under this section, the
 8 revenue derived from a tax rate of three-tenths percent (0.3%) on
 9 adjusted gross income:

10 (1) shall be paid to the county treasurer;

11 (2) may be used only to pay the costs of operating and
 12 maintaining a jail and justice center; and

13 (3) may not be considered by the state board of tax commissioners
 14 under any provision of IC 6-1.1-18.5, including the determination
 15 of the county's maximum permissible property tax levy.

16 (e) Notwithstanding section 3 of this chapter, the county fiscal body
 17 may adopt an ordinance under this section before June 1.

18 SECTION 3. IC 36-2-6-4 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) This section does not apply
 20 to a county having a consolidated city.

21 (b) **Except as provided in section 4.5 of this chapter**, the county
 22 executive may allow a claim or order the issuance of a county warrant
 23 for payment of a claim only at a regular or special meeting of the
 24 executive. The county auditor may issue a county warrant for payment
 25 of a claim against the county only if the executive or a court orders him
 26 to do so. However, this subsection does not apply to the issuance of
 27 warrants related to management of the common or congressional
 28 school fund.

29 (c) The county executive may allow a claim if the claim:

30 (1) complies with IC 5-11-10-1.6; and

31 (2) is placed on the claim docket by the auditor at least five (5)
 32 days before the meeting at which the executive is to consider the
 33 claim.

34 (d) A county auditor or member of a county executive who violates
 35 this section commits a Class C infraction.

36 (e) A county auditor who violates this section is liable on his official
 37 bond for twice the amount of the illegally drawn warrant, which may
 38 be recovered for the benefit of the county by a taxpayer of the county.
 39 A person who brings an action under this subsection shall give security
 40 for costs, and the court shall allow him a reasonable sum, including
 41 attorney's fees, out of the money recovered as compensation for his
 42 trouble and expense in bringing the action. This compensation shall be

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1 specified in the court's order.

2 (f) If, within sixty (60) days after the county executive allows a
 3 claim, a taxpayer of the county demands that the executive refund that
 4 allowance to the county, and the executive refuses to do so, the
 5 taxpayer may bring an action to recover an illegal, unwarranted, or
 6 unauthorized allowance for the benefit of the county. A person who
 7 brings an action under this subsection shall give security for costs, and
 8 the court shall allow him a reasonable sum, including attorney's fees,
 9 out of the money recovered as compensation for his trouble and
 10 expense in bringing the action. This compensation shall be specified in
 11 the court's order.

12 SECTION 4. IC 36-2-6-4.5 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2001]: **Sec. 4.5. (a) A county executive may adopt an ordinance
 15 allowing money to be disbursed for lawful county purposes under
 16 this section.**

17 **(b) Notwithstanding IC 5-11-10, with the prior written approval
 18 of the board having jurisdiction over the allowance of claims, the
 19 county auditor may make claim payments in advance of board
 20 allowance for the following kinds of expenses if the county
 21 executive has adopted an ordinance under subsection (a):**

- 22 **(1) Property or services purchased or leased from the United
 23 States government, its agencies, or its political subdivisions.**
 24 **(2) License or permit fees.**
 25 **(3) Insurance premiums.**
 26 **(4) Utility payments or utility connection charges.**
 27 **(5) General grant programs where advance funding is not
 28 prohibited and the contracting party posts sufficient security
 29 to cover the amount advanced.**
 30 **(6) Grants of state funds authorized by statute.**
 31 **(7) Maintenance or service agreements.**
 32 **(8) Leases or rental agreements.**
 33 **(9) Bond or coupon payments.**
 34 **(10) Payroll.**
 35 **(11) State or federal taxes.**
 36 **(12) Expenses that must be paid because of emergency
 37 circumstances.**
 38 **(13) Expenses described in an ordinance.**

39 **(c) Each payment of expenses under this section must be
 40 supported by a fully itemized invoice or bill and certification by the
 41 county auditor.**

42 **(d) The county executive or the county board having jurisdiction**



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1 over the allowance of the claim shall review and allow the claim at
 2 its next regular or special meeting following the pre-approved
 3 payment of the expense.

4 (e) A payment of expenses under this section must be published
 5 in the manner provided under section 3 of this chapter.

6 SECTION 5. IC 36-4-7-3, AS AMENDED BY P.L.35-1999,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2001]: Sec. 3. (a) This section does not apply to compensation
 9 paid by a city to members of its police and fire departments.

10 (b) Subject to the approval of the city legislative body, the city
 11 executive shall fix the compensation of each appointive officer, deputy,
 12 and other employee of the city. The legislative body may reduce but
 13 may not increase any compensation fixed by the executive.
 14 Compensation must be fixed under this section before:

15 (1) ~~August~~ **September** 20 for a third class city; and

16 (2) September 30 for a second class city;
 17 of each year for the ensuing budget year.

18 (c) Compensation fixed under this section may not be increased
 19 during the budget year for which it is fixed, but may be reduced by the
 20 executive.

21 (d) Notwithstanding subsection (b), the city clerk may, with the
 22 approval of the legislative body, fix the salaries of deputies and
 23 employees appointed under IC 36-4-11-4.

24 SECTION 6. IC 6-1.1-5.5-8 IS REPEALED [EFFECTIVE JULY 1,
 25 2001].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1503, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 11, reset in roman "Except as provided in subsection (k),".

Page 3, reset in roman lines 19 through 20.

Page 3, line 21, after "shall" insert "**may**".

Page 3, line 21, reset in roman "be waived by the public agency if the electronic map for which".

Page 3, reset in roman lines 22 through 27.

Page 3, after line 27, begin a new paragraph and insert:

"SECTION 2. IC 6-3.5-1.1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) This section applies only to a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and justice center.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for only ~~four (4)~~ **eight (8)** years. After the county has imposed the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for ~~four (4)~~ **eight (8)** years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) under this section, the revenue derived from a tax rate of three-tenths percent (0.3%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating and maintaining a jail and justice center; and
- (3) may not be considered by the state board of tax commissioners under any provision of IC 6-1.1-18.5, including the determination

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of the county's maximum permissible property tax levy.

(e) Notwithstanding section 3 of this chapter, the county fiscal body may adopt an ordinance under this section before June 1.

SECTION 3. IC 36-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) This section does not apply to a county having a consolidated city.

(b) **Except as provided in section 4.5 of this chapter**, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders him to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund.

(c) The county executive may allow a claim if the claim:

- (1) complies with IC 5-11-10-1.6; and
- (2) is placed on the claim docket by the auditor at least five (5) days before the meeting at which the executive is to consider the claim.

(d) A county auditor or member of a county executive who violates this section commits a Class C infraction.

(e) A county auditor who violates this section is liable on his official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(f) If, within sixty (60) days after the county executive allows a claim, a taxpayer of the county demands that the executive refund that allowance to the county, and the executive refuses to do so, the taxpayer may bring an action to recover an illegal, unwarranted, or unauthorized allowance for the benefit of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

SECTION 4. IC 36-2-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. (a) A county executive may adopt an ordinance**

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allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State or federal taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 5. IC 36-4-7-3, AS AMENDED BY P.L.35-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section before:

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- (1) ~~August~~ **September** 20 for a third class city; and
 - (2) September 30 for a second class city;
- of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 6. IC 6-1.1-5.5-8 IS REPEALED [EFFECTIVE JULY 1, 2001]."

and when so amended that said bill do pass.

(Reference is to HB 1503 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 13, nays 0.

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