



February 23, 2001

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## HOUSE BILL No. 1921

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DIGEST OF HB 1921 (Updated February 21, 2001 5:36 PM - DI 105)

**Citations Affected:** IC 6-1.1; IC 33-3; noncode.

**Synopsis:** Review of original tax appeals. Specifies the items that must be included in the administrative record submitted to the tax court in an appeal from a decision by the state board of tax commissioners. Specifies when the state board of tax commissioners is a defendant in an original tax appeal to the tax court. Provides procedures for notifying a party of the filing of an original tax appeal in the tax court.

**Effective:** Upon passage.

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January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.  
February 22, 2001, reported — Do Pass.

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HB 1921—LS 7905/DI 51+



February 23, 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. 1921

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A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 6-1.1-15-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** If an appeal  
3 is initiated by a person under section 5 of this chapter, the secretary of  
4 the state board of tax commissioners shall prepare a certified transcript  
5 of the proceedings related to the appeal. ~~However, the transcript shall~~  
6 ~~not include the evidence compiled by the board with respect to the~~  
7 ~~proceedings.~~ The secretary of the board shall transmit the transcript to  
8 the clerk of the court designated by the appellant.

9 **(b) The record for judicial review must include the following**  
10 **documents and items:**

11 **(1) Copies of all papers submitted to the state board of tax**  
12 **commissioners, including its division of appeals, during the**  
13 **course of the action and copies of all papers provided to the**  
14 **parties by the state board of tax commissioners, including its**  
15 **division of appeals. For purposes of this subdivision, "papers"**  
16 **includes, without limitation, all notices, petitions, motions,**  
17 **pleadings, orders, orders on rehearing, briefs, requests,**

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1 intermediate rulings, photographs, and other written  
2 documents.

3 (2) Evidence received or considered by the state board of tax  
4 commissioners, including its division of appeals.

5 (3) A statement of whether a site inspection was conducted,  
6 and if a site inspection was conducted, either:

7 (A) a summary report of the site inspection; or

8 (B) a videotape transcript of the site inspection.

9 (4) A statement of matters officially noticed.

10 (5) Proffers of proof and objections and rulings on them.

11 (6) Copies of proposed findings, requested orders, and  
12 exceptions.

13 (7) Either:

14 (A) a transcription of the audio tape of the hearing; or

15 (B) a transcript of the hearing prepared by a court  
16 reporter.

17 Copies of exhibits that, because of their nature, cannot be  
18 incorporated into the certified record must be kept by the state  
19 board of tax commissioners until the appeal is finally  
20 terminated. However, this evidence must be briefly named and  
21 identified in the transcript of the evidence and proceedings.

22 (c) If:

23 (1) a report of all or a part of the evidence or proceedings at  
24 a hearing conducted by the state board of tax commissioners,  
25 including its division of appeals, was not made; or

26 (2) a transcript is unavailable;

27 a party to the appeal initiated under section 5 of this chapter may  
28 prepare a statement of the evidence or proceedings. The statement  
29 must be submitted to the tax court and must also be served on all  
30 other parties. A party to the proceeding may serve objections or  
31 prepare amendments to the statement not later than ten (10) days  
32 after service.

33 SECTION 2. IC 33-3-5-13 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This  
35 section applies to an initial appeal of a final determination made by  
36 the department of state revenue with respect to a listed tax (as  
37 defined in IC 6-8.1-1-1) and other original tax appeals concerning  
38 taxes collected by the department of state revenue.

39 (b) The tax court shall try each original tax appeal without the  
40 intervention of a jury.

41 ~~(b)~~ (c) Subject to subsection (d), the tax court shall adopt rules and  
42 procedures under which original tax appeals are heard and decided.

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1 (d) Except to the extent that the Indiana Rules of Trial  
 2 Procedure are clearly inconsistent with the Indiana Tax Court  
 3 Rules, the Indiana Rules of Trial Procedure apply to appeals of  
 4 final determinations of the department of state revenue. The  
 5 Indiana Rules of Trial Procedure shall not be construed to extend  
 6 the jurisdiction of the tax court with respect to persons, actions, or  
 7 claims over which the tax court does not otherwise have authority.

8 SECTION 3. IC 33-3-5-21 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 21. (a) The tax court shall review  
 11 determinations of the state board of tax commissioners as if it were  
 12 a court of appeals.

13 (b) With regard to appeals of final determinations of the state  
 14 board of tax commissioners, to the extent that the Indiana Tax  
 15 Court Rules are inconsistent with the Indiana Rules of Appellate  
 16 Procedure, the Indiana Rules of Appellate Procedure apply.

17 (c) The tax court acquires jurisdiction over the department of  
 18 state revenue in an original tax appeal upon the filing, with the  
 19 clerk of the tax court, of a petition seeking to set aside a final  
 20 determination of the department of state revenue.

21 (d) The clerk of the tax court shall promptly transmit copies of  
 22 the petition filed in the tax court to the attorney general and to the  
 23 department of state revenue. The clerk shall transmit in  
 24 accompanying transmittal letters:

- 25 (1) the date on which the petition was filed;
- 26 (2) the date on which the petition is being mailed to the  
 27 attorney general and the defendant department of state  
 28 revenue; and
- 29 (3) the time within which the Indiana Tax Court Rules require  
 30 a responsive pleading.

31 (e) It is not necessary to serve summons on the attorney general  
 32 or the department of state revenue in an original tax appeal in the  
 33 tax court. Service of summons in accordance with Indiana Rule of  
 34 Trial Procedure 4.11 is required for the tax court to acquire  
 35 jurisdiction over any other person in a proceeding involving the  
 36 department of state revenue.

37 SECTION 4. IC 33-3-5-22 IS ADDED TO THE INDIANA CODE  
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 39 UPON PASSAGE]: Sec. 22. (a) This section does not relieve a party  
 40 from complying with the statutory requirements for bringing an  
 41 original tax appeal.

42 (b) The tax court acquires jurisdiction over:



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1 (1) a county property tax assessment board of appeals and a  
 2 township assessor, including a trustee assessor, when the state  
 3 board of tax commissioners has acted in an adjudicatory  
 4 capacity; and

5 (2) the state board of tax commissioners when the state board  
 6 of tax commissioners has acted in a regulatory capacity;  
 7 in an original tax appeal upon the filing, with the clerk of the tax  
 8 court, of a petition seeking to set aside a final determination of the  
 9 state board of tax commissioners.

10 (c) The clerk of the tax court shall promptly transmit copies of  
 11 the petition filed in the tax court to the attorney general and to the  
 12 state board of tax commissioners or a county property tax  
 13 assessment board of appeals and the township assessor, including  
 14 a trustee assessor, named as the defendant in the petition. The  
 15 clerk shall transmit in accompanying transmittal letters:

16 (1) the date on which the petition was filed;  
 17 (2) the date on which the petition is being mailed to the  
 18 attorney general and the:

19 (A) state board of tax commissioners; or

20 (B) county property tax assessment board of appeals and  
 21 township assessor, including a trustee assessor;

22 as appropriate; and

23 (3) the time within which the Indiana Tax Court Rules require  
 24 a responsive pleading.

25 (d) It is not necessary to serve summons on:

26 (1) the attorney general;

27 (2) the state board of tax commissioners;

28 (3) a county property tax assessment board of appeals; or

29 (4) a township assessor, including a trustee assessor;

30 in an original tax appeal in the tax court. Service of summons in  
 31 accordance with Indiana Rule of Trial Procedure 4.11 is required  
 32 for the tax court to acquire jurisdiction over any other person.

33 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-15-6,  
 34 as amended by this act, applies only to an administrative record  
 35 certified after June 30, 2001.

36 (b) IC 33-3-5-13, as amended by this act, and IC 33-3-5-21 and  
 37 IC 33-3-5-22, both as added by this act, apply to all original tax  
 38 appeals pending in the tax court after the effective date of this  
 39 SECTION.

40 SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1921, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 9, nays 3.

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