
HOUSE BILL No. 1137

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.1-5; IC 36-1-8-5.1.

Synopsis: Payment of gross income tax. Requires, for taxable years beginning after December 31, 2002, a taxpayer that is a political subdivision to file the taxpayer's estimated gross income tax returns and pay the tax to the department of state revenue on a monthly basis instead of a quarterly basis. Requires, for a rainy day fund established by a political subdivision after June 30, 2002, the fund to be established by the adoption of an ordinance or a resolution that specifies: (1) the purposes of the fund; (2) permissible expenditures from the fund; (3) the body or officers authorized to make such expenditures; (4) funding sources for the fund; and (5) any authority granted to the political subdivision's executive to suspend appropriation procedures for the fund. Specifies permissible sources of funding for a local rainy day fund. Provides that a local rainy day fund is subject to the same appropriation procedures as other local funds from which additional appropriations do not require approval by the department of local government finance. Provides that the executive of a political subdivision may suspend appropriation procedures for a local rainy day fund if given the authority do so by a local ordinance or resolution.

Effective: July 1, 2002; January 1, 2003.

Ayres, Stevenson

January 9, 2002, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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HOUSE BILL No. 1137

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 6-2.1-5-1.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1.1. (a) This
3 section applies to taxable years beginning after December 31, 1993.
4 (b) Except as provided in subsections (d) through ~~(g)~~; **(h)**, a
5 taxpayer shall file gross income tax returns with, and pay the taxpayer's
6 gross income tax liability to, the department by the due date of the
7 estimated return. A taxpayer who utilizes a taxable year that ends on
8 December 31 shall file the taxpayer's estimated gross income tax
9 returns and pay the tax to the department on or before April 20, June
10 20, September 20, and December 20 of the taxable year. If a taxpayer
11 utilizes a taxable year which does not end on December 31, the due
12 dates for filing estimated gross income tax returns and paying the tax
13 are on or before the twentieth day of the fourth, sixth, ninth, and twelfth
14 months of the taxpayer's taxable year.
15 (c) With each return filed, with each payment by cashier's check,
16 certified check, or money order delivered in person or by overnight
17 courier, and with each electronic fund transfer made, a taxpayer shall



- 1 pay to the department the remainder of:
- 2 (1) either twenty-five percent (25%) of the estimated or the exact
- 3 amount of gross income tax which is due; minus
- 4 (2) the amount of gross income tax which was withheld pursuant
- 5 to IC 6-2.1-6.
- 6 (d) If a taxpayer's estimated annual gross income tax liability does
- 7 not exceed one thousand dollars (\$1,000), then the taxpayer is not
- 8 required to file an estimated gross income tax return.
- 9 (e) If a taxpayer is required to file an annual gross income tax return
- 10 under section 2.1 of this chapter, and pays in full the taxpayer's gross
- 11 income tax liability for that taxable year before the taxpayer's final
- 12 estimated return is due, then the taxpayer is not required to file the final
- 13 estimated gross income tax return for that same taxable year.
- 14 (f) If the department determines that a taxpayer's:
- 15 (1) estimated quarterly gross income tax liability for the current
- 16 year; or
- 17 (2) average estimated quarterly gross income tax liability for the
- 18 preceding year;
- 19 exceeds, before January 1, 1998, twenty thousand dollars (\$20,000)
- 20 and, after December 31, 1997, ten thousand dollars (\$10,000), the
- 21 taxpayer shall pay the estimated gross income taxes due by electronic
- 22 funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or
- 23 by overnight courier a payment by cashier's check, certified check, or
- 24 money order to the department. The transfer or payment shall be made
- 25 on or before the date the tax is due.
- 26 (g) If a taxpayer's gross income tax payment is made by electronic
- 27 funds transfer, the taxpayer is not required to file an estimated gross
- 28 income tax return.
- 29 **(h) If a taxpayer is a political subdivision, the taxpayer shall file**
- 30 **the taxpayer's estimated gross income tax returns and pay the tax**
- 31 **to the department on a monthly basis on or before the twentieth**
- 32 **day of each month of the taxpayer's taxable year.**
- 33 SECTION 2. IC 6-2.1-5-2 IS AMENDED TO READ AS
- 34 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) Every
- 35 taxpayer who receives more than one thousand dollars (\$1,000) in
- 36 gross income during a particular taxable year shall file with the
- 37 department an annual gross income tax return. At the time of filing an
- 38 annual return, a taxpayer shall pay to the department an amount equal
- 39 to the remainder of: (i) the total gross income tax liability incurred by
- 40 the taxpayer for that particular taxable year; minus (ii) the sum of (A)
- 41 the total amount of gross income taxes which were previously paid to
- 42 the department for any quarter **or month, in the case of a political**

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1 **subdivision that must pay the department on a monthly basis**
 2 **under section 1.1(h) of this chapter**, of that same taxable year; plus
 3 (B) any gross income taxes which were withheld from the taxpayer for
 4 that same taxable year pursuant to IC 6-2.1-6.

5 (b) Except as provided in subsection (d), a taxpayer who utilizes a
 6 taxable year which ends on December 31, shall file his annual gross
 7 income tax return and pay the tax, if any, for that taxable year on or
 8 before April 15 of the immediately succeeding tax year.

9 (c) Except as provided in subsection (d), if a taxpayer utilizes a
 10 taxable year which does not end on December 31, the department shall
 11 prescribe the due dates for filing annual gross income tax returns and
 12 paying the tax.

13 (d) Any taxpayer whose gross income is either wholly or partially
 14 subject to the withholding procedures described in IC 6-2.1-6 shall file
 15 his annual gross income tax return on or before March 1 of the calendar
 16 year immediately following the year during which the tax was withheld.

17 (e) Any taxpayer who does not file an annual gross income tax
 18 return for a taxable year may be required to execute and file with the
 19 department a sworn statement that he did not receive more than one
 20 thousand dollars (\$1,000) of taxable gross income during that taxable
 21 year.

22 SECTION 3. IC 6-2.1-5-4 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. The department
 24 may require a taxpayer who receives gross income at two (2) or more
 25 business locations within the state to file with each:

26 **(1) quarterly gross income tax return or monthly gross income**
 27 **tax return, in the case of a political subdivision that must pay**
 28 **the department on a monthly basis under section 1.1(h) of this**
 29 **chapter; and**

30 **(2) annual gross income tax return;**

31 an information return which shows the allocation of gross income to
 32 each business location at which the gross income was received.

33 SECTION 4. IC 36-1-8-5.1, AS ADDED BY P.L.251-2001,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2002]: Sec. 5.1. (a) A political subdivision may establish a
 36 rainy day fund. ~~to receive transfers of unused and unencumbered funds~~
 37 ~~under section 5 of this chapter.~~ **If the political subdivision is a county,**
 38 **city, or town, the rainy day fund must be established by the**
 39 **adoption of an ordinance. For any other political subdivision, the**
 40 **rainy day fund must be established by the adoption of a resolution.**

41 (b) ~~The rainy day fund is subject to the same appropriation process~~
 42 ~~as other funds that receive tax money. Before making an appropriation~~

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1 from the rainy day fund, the fiscal body shall make a finding that the
 2 proposed use of the rainy day fund is consistent with the intent of the
 3 fund.

4 (e) In any fiscal year, a political subdivision may transfer not more
 5 than ten percent (10%) of the political subdivision's total budget for
 6 that fiscal year to the rainy day fund.

7 ~~(d)~~ (b) An ordinance or a resolution adopted under subsection
 8 (a) must specify the following:

9 (1) The purposes of the rainy day fund.

10 (2) The permissible expenditures from the rainy day fund,
 11 including the particular circumstances, if any, required for a
 12 permissible expenditure.

13 (3) The governing body or officers that may:

14 (A) initiate a permissible expenditure from the rainy day
 15 fund; or

16 (B) determine that a proposed expenditure is consistent
 17 with the purposes of the rainy day fund.

18 (4) The sources of funding for the rainy day fund.

19 (5) If granted by the political subdivision adopting the
 20 resolution or ordinance, the authority of the executive of the
 21 political subdivision (as defined in IC 36-1-2-5) to suspend the
 22 appropriation procedures for the rainy day fund under
 23 subsection (e).

24 (c) Funding for the rainy day fund must be from at least one (1)
 25 of the following sources and must be identified in the ordinance or
 26 resolution establishing the fund as required under subsection
 27 (b)(4):

28 (1) A budgeted appropriation, identified as a transfer to the
 29 rainy day fund, from any fund of the political subdivision
 30 described in IC 6-1.1-18-5(b), except for a fund dedicated to
 31 the payment of a capital lease or debt service.

32 (2) Transfers of unused and unencumbered funds under
 33 section 5 of this chapter.

34 (3) A contribution or gift from a third party or person that is
 35 given:

36 (A) expressly for purposes of the rainy day fund; or

37 (B) for purposes unexpressed by the donor, if the fiscal
 38 body of the political subdivision specifies that the
 39 contribution or gift shall be deposited in the rainy day
 40 fund.

41 (4) Earnings from investments made under IC 5-13.

42 (d) Except as otherwise provided in this section, the rainy day

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1 fund is subject to the same appropriation procedures that apply to
 2 other funds of the political subdivision described in
 3 IC 6-1.1-18-5(c).

4 (e) If given the authority to do so under:

5 (1) the ordinance or resolution adopted under subsection (a);

6 or

7 (2) any other ordinance or resolution adopted by the political
 8 subdivision;

9 the executive of a political subdivision (as defined in IC 36-1-2-5)
 10 may suspend the appropriation procedures required under
 11 subsection (d) by declaring in writing that an emergency exists and
 12 by authorizing expenditures from the rainy day fund without
 13 appropriation.

14 (f) The state board of tax commissioners department of local
 15 government finance may not reduce the actual or maximum
 16 permissible levy of a political subdivision as a result of a balance in the
 17 rainy day fund of the political subdivision. However, the department
 18 may consider any balance in the rainy day fund of a political
 19 subdivision during an appeal under IC 6-1.1-18.5-12 or IC 6-1.1-19.

20 SECTION 5. [EFFECTIVE JANUARY 1, 2003] IC 6-2.1-5-1.1, as
 21 amended by this act, applies to taxable years beginning after
 22 December 31, 2002.

23 SECTION 6. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding
 24 IC 36-1-8-5.1(a), as amended by this act, a political subdivision that
 25 has established a rainy day fund before July 1, 2002, is not
 26 required to adopt an ordinance or a resolution as required by
 27 IC 36-1-8-5.1(a), as amended by this act. However, a political
 28 subdivision described in this SECTION shall adopt an ordinance
 29 or a resolution specifying the information required under
 30 IC 36-1-8-5.1(b), as amended by this act, not later than September
 31 1, 2002.

32 (b) This SECTION expires July 1, 2003.

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