
HOUSE BILL No. 1206

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1; IC 36-3-2-8.

Synopsis: Fees on exempt property. Eliminates the home rule powers of a city, town, or county to impose a fire, police, or public safety service charge or fee on property that is exempt from property taxation. Prohibits special taxing districts and other political subdivisions from exercising the powers under a statute to impose a fire, police, or public safety service charge fee or user fee on exempt property or on the owner of exempt property.

Effective: April 1, 2002.

Bischoff

January 10, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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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. 1206



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 36-1-3-8 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE APRIL 1, 2002]: Sec. 8. (a) Subject to subsection (b), a
- 3 unit does not have the following:
- 4 (1) The power to condition or limit its civil liability, except as
- 5 expressly granted by statute.
- 6 (2) The power to prescribe the law governing civil actions
- 7 between private persons.
- 8 (3) The power to impose duties on another political subdivision,
- 9 except as expressly granted by statute.
- 10 (4) The power to impose a tax, except as expressly granted by
- 11 statute.
- 12 (5) The power to impose a license fee greater than that reasonably
- 13 related to the administrative cost of exercising a regulatory power.
- 14 (6) The power to impose a service charge or user fee greater than
- 15 that reasonably related to reasonable and just rates and charges
- 16 for services.
- 17 **(7) The power to impose a service charge or user fee on:**



- 1 **(A) property exempt from taxation under IC 6-1.1-10; or**
 2 **(B) an owner of property to the extent that the service**
 3 **charge or user fee relates to property that is exempt from**
 4 **taxation under IC 6-1.1-10;**
 5 **for firefighting, police, or other public safety services,**
 6 **including charges or fees that will be used to pay benefits to**
 7 **a retired police officer or firefighter or the spouse of a**
 8 **deceased police officer or firefighter.**
 9 ~~(7)~~ **(8)** The power to regulate conduct that is regulated by a state
 10 agency, except as expressly granted by statute.
 11 ~~(8)~~ **(9)** The power to prescribe a penalty for conduct constituting
 12 a crime or infraction under statute.
 13 ~~(9)~~ **(10)** The power to prescribe a penalty of imprisonment for an
 14 ordinance violation.
 15 ~~(10)~~ **(11)** The power to prescribe a penalty of a fine as follows:
 16 (A) More than ten thousand dollars (\$10,000) for the violation
 17 of an ordinance or a regulation concerning air emissions
 18 adopted by a county that has received approval to establish an
 19 air program under IC 13-17-12-6.
 20 (B) More than two thousand five hundred dollars (\$2,500) for
 21 any other ordinance violation.
 22 ~~(11)~~ **(12)** The power to invest money, except as expressly granted
 23 by statute.
 24 ~~(12)~~ **(13)** The power to order or conduct an election, except as
 25 expressly granted by statute.
 26 (b) A township does not have the following, except as expressly
 27 granted by statute:
 28 (1) The power to require a license or impose a license fee.
 29 (2) The power to impose a service charge or user fee.
 30 (3) The power to prescribe a penalty.
 31 SECTION 2. IC 36-1-3-10 IS ADDED TO THE INDIANA CODE
 32 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 33 APRIL 1, 2002]: **Sec. 10. (a) This section applies to all political**
 34 **subdivisions, including a special taxing district.**
 35 **(b) A political subdivision may not exercise a power under any**
 36 **statute to impose a service charge or user fee on:**
 37 **(1) property exempt from taxation under IC 6-1.1-10; or**
 38 **(2) an owner of property to the extent that the service charge**
 39 **or user fee relates to property that is exempt from taxation**
 40 **under IC 6-1.1-10;**
 41 **for firefighting, police, or other public safety services, including**
 42 **charges or fees that will be used to pay benefits to a retired police**

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1 **officer or firefighter or the spouse of a deceased police officer or**
 2 **firefighter.**

3 SECTION 3. IC 36-1-6-9 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE APRIL 1, 2002]: Sec. 9. (a) The legislative body of a
 5 county or municipality may adopt an ordinance providing that certain
 6 other ordinances may be enforced through a proceeding before an
 7 administrative body of the county or municipality.

8 (b) An ordinance adopted under subsection (a) must designate the
 9 following:

10 (1) The ordinances that may be enforced through an
 11 administrative proceeding.

12 (2) The administrative body before which the proceeding may be
 13 brought.

14 (c) An ordinance may not be designated under subsection (b) for
 15 enforcement through an administrative proceeding unless the ordinance
 16 restricts or prohibits actions harmful to the land, air, or water, governs
 17 use of the public way, or governs the standing or parking of vehicles.

18 (d) In a proceeding to enforce an ordinance brought before an
 19 administrative body designated under subsection (b):

20 (1) a violation of the ordinance must be proven by a
 21 preponderance of the evidence; and

22 (2) the administrative body may not impose a penalty other than
 23 a fine in an amount within the limit set forth in ~~IC 36-1-3-8(10)~~:

24 **IC 36-1-3-8(a)(11).**

25 (e) A person who receives a penalty under subsection (d) may
 26 appeal the order imposing the penalty to a court of record in:

27 (1) the county that brought the enforcement proceeding if the
 28 proceeding is brought by a county; or

29 (2) the county in which the municipality is located if the
 30 proceeding is brought by a municipality.

31 (f) An appeal under subsection (e) from an order imposing a penalty
 32 must be filed not more than sixty (60) days after the day on which the
 33 order is entered.

34 SECTION 4. IC 36-3-2-8 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE APRIL 1, 2002] : Sec. 8. Whenever the consolidated
 36 city, or any of its special service districts or special taxing districts,
 37 provides services outside its boundaries, it may impose a service
 38 charge for installation and operating expenses, subject to
 39 ~~IC 36-1-3-8(6)~~: **IC 36-1-3-8(a)(6) and IC 36-1-3-8(a)(7).**

40 SECTION 5. [EFFECTIVE APRIL 1, 2002] **An ordinance or**
 41 **resolution adopted before the effective date of this SECTION that**
 42 **imposes a service charge or user fee on property or an owner**

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1 described in IC 36-1-3-8(a)(7), as amended by this act, or
2 IC 36-1-3-10, as added by this act, is void after the effective date of
3 this SECTION to the extent that it is inconsistent with
4 IC 36-1-3-8(a)(7), as amended by this act, or IC 36-1-3-10, as added
5 by this act.
6 SECTION 6. An emergency is declared for this act.

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