
HOUSE BILL No. 1299

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-5-3; IC 6-1.1; IC 33-3-5; IC 36-2-5-3; IC 36-2-9-20; P.L.198-2001, SECTION 117.

Synopsis: Property tax matters. Permits the department of local government finance (DLGF) to intervene in certain proceedings before the board of tax review (IBTR). Directs county assessors and auditors to provide certain information to the state. Increases the penalty for falsifying a sales disclosure form, and establishes a penalty for failure to file the form. Requires filing of property tax exemption claims with the county assessor. Permits a county property tax assessment board of appeals (BOA) to review and act on an assessment agreement reached between a taxpayer and a township assessor. Directs the IBTR to refer matters back to the DLGF or the BOA on remand from the tax court. Corrects inconsistencies in P.L.198-2001 concerning appeal petitions and standards, property tax refunds, the tax court small claims docket, and the commissioner of the DLGF. Adjusts the standard for a quorum of the BOA. Directs the attorney general to represent township trustee assessors in tax court proceedings but not to represent local assessing officials as plaintiffs. Provides that certain payments to level two assessor-appraisers are not part of the assessors' annual compensation. Repeals the county agricultural land advisory committee, the tax commissioners' agricultural advisory council, the county land valuation commission, and the state board of tax commissioners' division of tax review.

Effective: Upon passage; July 1, 2001 (retroactive); January 1, 2002 (retroactive); July 1, 2002.

Welch, Bauer, Scholer, Dumezich

January 15, 2002, read first time and referred to Committee on Ways and Means.



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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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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HOUSE BILL No. 1299



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

- 1 SECTION 1. IC 4-21.5-5-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The
- 3 following persons have standing to obtain judicial review of an agency
- 4 action:
- 5 (1) A person to whom the agency action is specifically directed.
- 6 (2) A person who was a party to the agency proceedings that led
- 7 to the agency action.
- 8 (3) A person eligible for standing under a law applicable to the
- 9 agency action.
- 10 (4) A person otherwise aggrieved or adversely affected by the
- 11 agency action.
- 12 **(5) The department of local government finance with respect**
- 13 **to judicial review of a final determination of the Indiana**
- 14 **board of tax review in an action in which the department has**
- 15 **intervened under IC 6-1.1-15-5(b).**
- 16 (b) A person has standing under subsection (a)(4) only if:
- 17 (1) the agency action has prejudiced or is likely to prejudice the



1 interests of the person;

2 (2) the person:

3 (A) was eligible for an initial notice of an order or proceeding
4 under this article, was not notified of the order or proceeding
5 in substantial compliance with this article, and did not have
6 actual notice of the order or proceeding before the last date in
7 the proceeding that the person could object or otherwise
8 intervene to contest the agency action; or

9 (B) was qualified to intervene to contest an agency action
10 under IC 4-21.5-3-21(a), petitioned for intervention in the
11 proceeding, and was denied party status;

12 (3) the person's asserted interests are among those that the agency
13 was required to consider when it engaged in the agency action
14 challenged; and

15 (4) a judgment in favor of the person would substantially
16 eliminate or redress the prejudice to the person caused or likely
17 to be caused by the agency action.

18 SECTION 2. IC 6-1.1-4-13 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) In assessing
20 or reassessing land, the land shall be assessed as agricultural land only
21 when it is devoted to agricultural use.

22 ~~(b) In making a general reassessment of land used for agriculture,~~
23 ~~the county assessor shall appoint a committee of five (5) competent~~
24 ~~persons to help determine land values. At least two (2) of the~~
25 ~~committee members must be agricultural land owners of the county.~~
26 ~~The committee shall be known as the county agricultural land advisory~~
27 ~~committee. The indicators of value determined by this committee shall~~
28 ~~be submitted to the tax commissioners' agricultural advisory council,~~
29 ~~as established under IC 6-1.1-38-1, as guides for ascertaining the value~~
30 ~~of agricultural land.~~

31 ~~(c) (b) The state board of tax commissioners department of local~~
32 ~~government finance shall give written notice to each county assessor~~
33 ~~of:~~

34 (1) the availability of the United States Department of
35 Agriculture's soil survey data; and

36 (2) the appropriate soil productivity factor for each type or
37 classification of soil shown on the United States Department of
38 Agriculture's soil survey map.

39 All assessing officials and the property tax assessment board of appeals
40 shall use the data in determining the true tax value of agricultural land.

41 ~~(d) (c) The state board of tax commissioners department of local~~
42 ~~government finance shall by rule provide for the method for~~

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1 determining the true tax value of each parcel of agricultural land.

2 ~~(c)~~ **(d)** This section does not apply to land purchased for industrial,
3 commercial, or residential uses.

4 SECTION 3. IC 6-1.1-4-25, AS AMENDED BY P.L.198-2001,
5 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]: Sec. 25. (a) Each township assessor shall keep the
7 assessor's reassessment data and records current by securing the
8 necessary field data and by making changes in the assessed value of
9 real property as changes occur in the use of the real property. The
10 township assessor's records shall at all times show the assessed value
11 of real property in accordance with the provisions of this chapter. The
12 township assessor shall ensure that the county assessor has full access
13 to the assessment records maintained by the township assessor.

14 (b) The township assessor in a county having a consolidated city, or
15 the county assessor in every other county, shall:

16 (1) maintain an electronic data file of:

17 **(A)** the parcel characteristics and parcel assessments of all
18 parcels; **and**

19 **(B) the personal property return characteristics and**
20 **assessments by return;**

21 for each township in the county as of each assessment date; ~~that~~
22 ~~is~~

23 **(2) maintain the file** in the form required by:

24 (A) the legislative services agency; and

25 (B) the department of local government finance; and

26 ~~(2)~~ **(3)** transmit the data **in the file** with respect to the assessment
27 date of each year before October 1 of the year to:

28 (A) the legislative services agency; and

29 (B) the department of local government finance.

30 SECTION 4. IC 6-1.1-5.5-4, AS AMENDED BY P.L.198-2001,
31 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2002]: Sec. 4. **(a)** A person filing a sales disclosure form
33 under this chapter shall pay a fee of five dollars (\$5) to the county
34 auditor.

35 **(b)** Eighty percent (80%) of the revenue **collected under this**
36 **section and section 12 of this chapter** shall be deposited in the county
37 sales disclosure fund established under section 4.5 of this chapter.
38 Twenty percent (20%) of the revenue shall be transferred to the state
39 treasurer for deposit in the state assessment training fund established
40 under section 4.7 of this chapter.

41 SECTION 5. IC 6-1.1-5.5-10 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) A person who

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1 knowingly and intentionally:

- 2 (1) falsifies the value of transferred real property; or
 3 (2) omits or falsifies any information required to be provided in
 4 the sales disclosure form;

5 commits a Class A ~~infraction~~ **misdemeanor**.

6 (b) A public official who knowingly and intentionally accepts:

- 7 (1) a sales disclosure document for filing that:
 8 (A) falsifies the value of transferred real property; or
 9 (B) omits or falsifies any information required to be provided
 10 in the sales disclosure form; or
 11 (2) a conveyance document for recording in violation of section
 12 6 of this chapter;

13 commits a Class A infraction.

14 SECTION 6. IC 6-1.1-5.5-12 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2002]: **Sec. 12. (a) A party to a conveyance**
 17 **who:**

- 18 (1) **is required to file a sales disclosure form under this**
 19 **chapter; and**
 20 (2) **fails to file a sales disclosure form at the time and in the**
 21 **manner required by this chapter;**

22 **is subject to a penalty in the amount determined under subsection**
 23 **(b).**

24 (b) **The amount of the penalty under subsection (a) is the greater**
 25 **of:**

- 26 (1) **twenty-five dollars (\$25); or**
 27 (2) **twenty five thousandths of one percent (.025%) of the sale**
 28 **price of the real property transferred under the conveyance**
 29 **document.**

30 (c) **The county assessor shall:**

- 31 (1) **determine the penalty imposed under this section;**
 32 (2) **assess the penalty to the party to a conveyance;**
 33 (3) **notify the party to the conveyance that the penalty is**
 34 **payable not later than thirty (30) days after notice of the**
 35 **assessment;**
 36 (4) **collect the penalty;**
 37 (5) **deposit penalty collections as required under section 4 of**
 38 **this chapter; and**
 39 (6) **notify the county prosecuting attorney of delinquent**
 40 **payments.**

41 (d) **The county prosecuting attorney shall initiate an action to**
 42 **recover a delinquent penalty under this section. In a successful**

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1 **action against a person for a delinquent penalty, the court shall**
 2 **award the county prosecuting attorney reasonable attorney fees.**

3 SECTION 7. IC 6-1.1-8-30, AS AMENDED BY P.L.198-2001,
 4 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 30. If a public utility
 6 company files its objections to the department of local government
 7 finance's tentative assessment of the company's distributable property
 8 in the manner prescribed in section 28 of this chapter, the company
 9 may initiate an appeal of the department's final assessment of that
 10 property by filing a petition with the Indiana board not more than
 11 ~~twenty (20)~~ **forty-five (45)** days after the department gives the public
 12 utility notice of the final determination. The public utility may petition
 13 for judicial review of the Indiana board's final determination to the tax
 14 court under IC 4-21.5-5. However, the company must:

- 15 (1) **file a verified** petition for judicial review; and
 16 (2) mail to the county auditor of each county in which the public
 17 utility company's distributable property is located:
 18 (A) a notice that the complaint was filed; and
 19 (B) instructions for obtaining a copy of the complaint;

20 within ~~twenty (20)~~ **forty-five (45)** days after the date of the notice of
 21 the Indiana board's final determination.

22 SECTION 8. IC 6-1.1-11-3, AS AMENDED BY P.L.198-2001,
 23 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2002]: Sec. 3. (a) An owner of tangible property who wishes
 25 to obtain an exemption from property taxation shall file a certified
 26 application in duplicate with the ~~auditor~~ **county assessor** of the county
 27 in which the property that is the subject of the exemption is located.
 28 The application must be filed annually on or before May 15 on forms
 29 prescribed by the department of local government finance. ~~The county~~
 30 ~~auditor shall immediately forward a copy of the certified application to~~
 31 ~~the county assessor.~~ Except as provided in sections 1, 3.5, and 4 of this
 32 chapter, the application applies only for the taxes imposed for the year
 33 for which the application is filed.

34 (b) The authority for signing an exemption application may not be
 35 delegated by the owner of the property to any other person except by
 36 an executed power of attorney.

37 (c) An exemption application which is required under this chapter
 38 shall contain the following information:

- 39 (1) A description of the property claimed to be exempt in
 40 sufficient detail to afford identification.
 41 (2) A statement showing the ownership, possession, and use of
 42 the property.

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1 (3) The grounds for claiming the exemption.
 2 (4) The full name and address of the applicant.
 3 (5) Any additional information which the department of local
 4 government finance may require.
 5 (d) A person who signs an exemption application shall attest in
 6 writing and under penalties of perjury that, to the best of the person's
 7 knowledge and belief, a predominant part of the property claimed to be
 8 exempt is not being used or occupied in connection with a trade or
 9 business that is not substantially related to the exercise or performance
 10 of the organization's exempt purpose.
 11 SECTION 9. IC 6-1.1-15-1, AS AMENDED BY P.L.198-2001,
 12 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 1. (a) A taxpayer may obtain a review by the
 14 county property tax assessment board of appeals of a county or
 15 township official's action with respect to the assessment of the
 16 taxpayer's tangible property if the official's action requires the giving
 17 of notice to the taxpayer. The taxpayer and county or township official
 18 whose original determination is under review are parties to the
 19 proceeding before the county property tax assessment board of appeals.
 20 At the time that notice is given to the taxpayer, the taxpayer shall also
 21 be informed in writing of:
 22 (1) the opportunity for review under this section; and
 23 (2) the procedures the taxpayer must follow in order to obtain
 24 review under this section.
 25 (b) In order to appeal a current assessment and have a change in the
 26 assessment effective for the most recent assessment date, the taxpayer
 27 must file a petition with the assessor of the county in which the action
 28 is taken:
 29 (1) within forty-five (45) days after notice of a change in the
 30 assessment is given to the taxpayer; or
 31 (2) May 10 of that year;
 32 whichever is later. The county assessor shall notify the county auditor
 33 that the assessment is under appeal.
 34 (c) A change in an assessment made as a result of an appeal filed:
 35 (1) in the same year that notice of a change in the assessment is
 36 given to the taxpayer; and
 37 (2) after the time prescribed in subsection (b);
 38 becomes effective for the next assessment date.
 39 (d) A taxpayer may appeal a current real property assessment in a
 40 year even if the taxpayer has not received a notice of assessment in the
 41 year. If an appeal is filed on or before May 10 of a year in which the
 42 taxpayer has not received notice of assessment, a change in the

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1 assessment resulting from the appeal is effective for the most recent
 2 assessment date. If the appeal is filed after May 10, the change
 3 becomes effective for the next assessment date.

4 (e) The department of local government finance shall prescribe the
 5 form of the petition for review of an assessment determination by a
 6 township assessor. The department shall issue instructions for
 7 completion of the form. The form and the instructions must be clear,
 8 simple, and understandable to the average individual. An appeal of
 9 such a determination must be made on the form prescribed by the
 10 department. The form must require the petitioner to specify the
 11 following:

12 (1) The physical characteristics of the property in issue that bear
 13 on the assessment determination.

14 (2) All other facts relevant to the assessment determination.

15 (3) The reasons why the petitioner believes that the assessment
 16 determination by the township assessor is erroneous.

17 (f) The department of local government finance shall prescribe a
 18 form for a response by the township assessor to the petition for review
 19 of an assessment determination. The department shall issue instructions
 20 for completion of the form. The form must require the township
 21 assessor to indicate:

22 (1) agreement or disagreement with each item indicated on the
 23 petition under subsection (e); and

24 (2) the reasons why the assessor believes that the assessment
 25 determination is correct.

26 (g) Immediately upon receipt of a timely filed petition on the form
 27 prescribed under subsection (e), the county assessor shall forward a
 28 copy of the petition to the township assessor who made the challenged
 29 assessment. The township assessor shall, within thirty (30) days after
 30 the receipt of the petition, attempt to hold a preliminary conference
 31 with the petitioner and resolve as many issues as possible. Within ten
 32 (10) days after the conference, the township assessor shall forward to
 33 the county auditor and county assessor a completed response to the
 34 petition on the form prescribed under subsection (f). The county
 35 assessor shall immediately forward a copy of the response form to the
 36 petitioner and the county property tax assessment board of appeals. **If**
 37 **after the conference there are no items listed in the petition on**
 38 **which there is disagreement, the property tax assessment board of**
 39 **appeals may hold a hearing within ninety (90) days after the filing**
 40 **of the petition to review the agreement reached by the township**
 41 **assessor and the petitioner and to determine whether to change the**
 42 **assessment that would result from that agreement.** If after the

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1 conference there are items listed in the petition on which there is
 2 disagreement, the property tax assessment board of appeals shall hold
 3 a hearing within ninety (90) days of the filing of the petition on those
 4 items of disagreement, except as provided in ~~subsection~~ **subsections**
 5 **(h) and (i)**. The taxpayer may present the taxpayer's reasons for
 6 disagreement with the assessment. **If the township assessor or county**
 7 **assessor for the county disagrees with the assessment, the township**
 8 **assessor or county assessor** must present the basis for the assessment
 9 decision on ~~these the~~ **items of disagreement** to the board of appeals at
 10 the hearing and the reasons the petitioner's appeal should be denied on
 11 those items. The board of appeals shall have a written record of the
 12 hearing and prepare a written statement of findings and a decision on
 13 each item within sixty (60) days of the hearing, except as provided in
 14 ~~subsection~~ **subsections (h) and (i)**. If the township assessor does not
 15 attempt to hold a preliminary conference, the board shall accept the
 16 appeal of the petitioner at the hearing.

17 (h) This subsection applies to a county having a population of more
 18 than three hundred thousand (300,000). In the case of a petition filed
 19 after December 31, 2000, the county property tax assessment board of
 20 appeals shall:

21 (1) hold its hearing within one hundred eighty (180) days instead
 22 of ninety (90) days; and

23 (2) have a written record of the hearing and prepare a written
 24 statement of findings and a decision on each item within one
 25 hundred twenty (120) days after the hearing.

26 (i) **This subsection applies to a county having a population of**
 27 **three hundred thousand (300,000) or less. With respect to an**
 28 **appeal of a real property assessment that takes effect on the**
 29 **assessment date on which a general reassessment of real property**
 30 **takes effect under IC 6-1.1-4-4, the county property tax assessment**
 31 **board of appeals shall:**

32 (1) **hold its hearing within one hundred eighty (180) days**
 33 **instead of ninety (90) days; and**

34 (2) **have a written record of the hearing and prepare a written**
 35 **statement of findings and a decision on each item within one**
 36 **hundred twenty (120) days after the hearing.**

37 (j) The county property tax assessment board of appeals:

38 (1) may not require a taxpayer that files a petition for review
 39 under this section to file documentary evidence or summaries of
 40 statements of testimonial evidence before the hearing required
 41 under subsection (g); and

42 (2) may require the parties to the appeal to file not more than ten

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1 (10) days before the date of the hearing required under subsection
 2 (g) lists of witnesses and exhibits to be introduced at the hearing.

3 SECTION 10. IC 6-1.1-15-5, AS AMENDED BY P.L.198-2001,
 4 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 5. (a) Within fifteen (15) days after the
 6 Indiana board gives notice of its final determination under section 4 of
 7 this chapter to the party or the maximum allowable time for the
 8 issuance of a final determination by the Indiana board under section 4
 9 of this chapter expires, a party to the proceeding may request a
 10 rehearing before the Indiana board. The Indiana board may conduct a
 11 rehearing and affirm or modify its final determination, giving the same
 12 notices after the rehearing as are required by section 4 of this chapter.
 13 The Indiana board has fifteen (15) days after receiving a petition for a
 14 rehearing to determine whether to grant a rehearing. Failure to grant a
 15 rehearing within fifteen (15) days after receiving the petition shall be
 16 treated as a final determination to deny the petition. A petition for a
 17 rehearing does not toll the time in which to file a petition for judicial
 18 review unless the petition for rehearing is granted. If the Indiana board
 19 determines to rehear a final determination, the Indiana board:

20 (1) may conduct the additional hearings that the Indiana board
 21 determines necessary or review the written record without
 22 additional hearings; and

23 (2) shall issue a final determination within ninety (90) days after
 24 notifying the parties that the Indiana board will rehear the final
 25 determination.

26 Failure of the Indiana board to make a final determination within the
 27 time allowed under subdivision (2) shall be treated as a final
 28 determination affirming the original decision of the Indiana board.

29 (b) A person may petition for judicial review of the final
 30 determination of the Indiana board regarding the assessment of that
 31 person's tangible property. The action shall be taken to the tax court
 32 under IC 4-21.5-5. Petitions for judicial review may be consolidated at
 33 the request of the appellants if it can be done in the interest of justice.
 34 The property tax assessment board of appeals that made the
 35 determination under appeal under this section may, with the approval
 36 of the county executive, file an amicus curiae brief in the review
 37 proceeding under this section. The expenses incurred by the property
 38 tax assessment board of appeals in filing the amicus curiae brief shall
 39 be paid from the reassessment fund under IC 6-1.1-4-27. In addition,
 40 the executive of a taxing unit may file an amicus curiae brief in the
 41 review proceeding under this section if the property whose assessment
 42 is under appeal is subject to assessment by that taxing unit. **The**

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1 **department of local government finance may intervene in an action**
2 **taken under this subsection if the interpretation of a rule of the**
3 **department is at issue in the action. A:**

4 (1) township assessor, county assessor, member of a county
5 property tax assessment board of appeals, or county property tax
6 assessment board of appeals that made the original assessment
7 determination under appeal under this section; or

8 (2) county auditor who made the original enterprise zone
9 inventory credit determination under appeal under IC 6-1.1-20.8;
10 is a party to the review under this section to defend the determination.

11 (c) To initiate a proceeding for judicial review under this section, a
12 person must take the action required by subsection (b) within:

13 (1) forty-five (45) days after the Indiana board gives the person
14 notice of its final determination, unless a rehearing is conducted
15 under subsection (a); or

16 (2) thirty (30) days after the Indiana board gives the person notice
17 under subsection (a) of its final determination, if a rehearing is
18 conducted under subsection (a) or the maximum time elapses for
19 the Indiana board to make a determination under this section.

20 (d) The failure of the Indiana board to conduct a hearing within the
21 period prescribed in section 4(f) or 4(g) of this chapter does not
22 constitute notice to the person of an Indiana board final determination.

23 (e) The county executive may petition for judicial review to the tax
24 court in the manner prescribed in this section upon request by the
25 county assessor or elected township assessor. If the county executive
26 determines upon a request under this subsection to not appeal to the tax
27 court, the entity described in subsection (b) that made the original
28 determination under appeal under this section may take an appeal to the
29 tax court in the manner prescribed in this section using funds from that
30 entity's budget.

31 SECTION 11. IC 6-1.1-15-8, AS AMENDED BY P.L.198-2001,
32 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 8. (a) If a final determination by the Indiana
34 board regarding the assessment of any tangible property is vacated, set
35 aside, or adjudged null and void under the decision of the tax court
36 under IC 4-21.5-5, the matter of the assessment of the property shall be
37 remanded to the Indiana board for reassessment and further
38 proceedings as specified in the decision of the tax court with
39 instructions to the Indiana board to refer the matter to the:

40 (1) department of local government finance with respect to an
41 appeal of a determination made by the department; or

42 (2) county property tax assessment board of appeals with

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1 **respect to an appeal of a determination made by the county**
 2 **board;**

3 **to make another assessment.** Upon remand, the Indiana board may
 4 take action only on those issues specified in the decision of the tax
 5 court.

6 (b) The ~~Indiana board~~ **department of local government finance or**
 7 **the county property tax assessment board of appeals** shall take
 8 action on a case ~~remanded referred~~ to it by the ~~tax court~~ **Indiana**
 9 **board under subsection (a)** not later than ninety (90) days after the
 10 date the ~~decision of the tax court is rendered;~~ **referral is made** unless
 11 an appeal of the final determination of the Indiana board is initiated
 12 under IC 4-21.5-5-16. The ~~Indiana board~~ **department of local**
 13 **government finance or the county property tax assessment board**
 14 **of appeals** may petition the ~~tax court~~ **Indiana board** at any time for an
 15 extension of the ninety (90) day period. An extension shall be granted
 16 upon a showing of reasonable cause.

17 (c) The taxpayer in a case remanded under subsection (a) may
 18 petition the tax court for an order requiring the ~~Indiana board~~
 19 **department of local government finance or the county property tax**
 20 **assessment board of appeals** to show cause why action has not been
 21 taken pursuant to the ~~tax court's decision~~ **Indiana board's referral**
 22 **under subsection (a)** if:

23 (1) at least ninety (90) days have elapsed since the ~~tax court's~~
 24 ~~decision referral~~ **was rendered; made;**

25 (2) the ~~Indiana board~~ **department of local government finance**
 26 **or the county property tax assessment board of appeals** has
 27 not taken action on the issues specified in the tax court's decision;
 28 and

29 (3) an appeal of the tax court's decision has not been filed.

30 (d) If a case remanded under subsection (a) is appealed under
 31 IC 4-21.5-5-16, the ninety (90) day period provided in subsection (b)
 32 is tolled until the appeal is concluded.

33 SECTION 12. IC 6-1.1-15-9, AS AMENDED BY P.L.198-2001,
 34 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 9. (a) If the assessment of tangible property
 36 is corrected by the ~~Indiana board~~ **department of local government**
 37 **finance or the county property tax assessment board of appeals**
 38 under section 8 of this chapter, the owner of the property has a right to
 39 appeal the ~~Indiana board's~~ final determination of the corrected
 40 assessment ~~In a case meeting the requirements of section 5(e)(1) or~~
 41 ~~5(e)(2) of this chapter;~~ **to the Indiana board.** The county executive
 42 also has a right to appeal the ~~Indiana board's~~ final determination of the



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1 reassessment **by the department of local government finance or the**
2 **county property tax assessment board of appeals** but only upon
3 request by the county assessor.

4 (b) An appeal under this section must be initiated in the manner
5 prescribed in section **5 3** of this chapter **or IC 6-1.5-5.**

6 SECTION 13. IC 6-1.1-26-2, AS AMENDED BY P.L.198-2001,
7 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2002]: Sec. 2. (a) The county auditor shall forward a claim for
9 refund filed under section 1 of this chapter to the department of local
10 government finance for review by the department if:

11 (1) the claim is for the refund of taxes paid on an assessment
12 made or determined by the state board of tax commissioners
13 (before the board was abolished) or the department of local
14 government finance; and

15 (2) the claim is based upon the grounds specified in
16 IC 6-1.1-26-1(4)(ii) or IC 6-1.1-26-1(4)(iii).

17 (b) The department of local government finance shall review each
18 refund claim forwarded to it under this section. The department shall
19 certify its approval or disapproval on the claim and shall return the
20 claim to the county auditor.

21 (c) Before the department of local government finance disapproves
22 a refund claim that is forwarded to it under this section, the department
23 shall notify the claimant of its intention to disapprove the claim and of
24 the time and place fixed for a hearing on the claim. The department
25 shall hold the hearing within thirty (30) days after the date of the
26 notice. The claimant has a right to be heard at the hearing. After the
27 hearing, the department shall give the claimant notice of the
28 department's final determination on the claim.

29 (d) If a person desires to initiate an appeal of the final determination
30 of the department of local government finance to disapprove a claim
31 under subsection (c), the person shall file a petition for review with the
32 **Indiana board appropriate county assessor** not more than forty-five
33 (45) days after the department gives the person notice of the final
34 determination.

35 (e) If a person desires to initiate a proceeding for judicial review of
36 the Indiana board's final determination under subsection (d), the person
37 must petition for judicial review under IC 4-21.5-5 not more than
38 forty-five (45) days after the Indiana board gives the person notice of
39 the final determination.

40 SECTION 14. IC 6-1.1-26-5, AS AMENDED BY P.L.198-2001,
41 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. (a) When a claim for

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1 refund filed under section 1 of this chapter is allowed either by the
 2 county board of commissioners, the department of local government
 3 finance, the Indiana board, or the Indiana tax court on appeal, the
 4 claimant is entitled to a refund. The amount of the refund shall equal
 5 the amount of the claim so allowed plus, with respect to claims for
 6 refund filed after ~~June 30~~, **December 31**, 2001, interest at four percent
 7 (4%) from the date on which the taxes were paid or payable, whichever
 8 is later, to the date of the refund. The county auditor shall, without an
 9 appropriation being required, issue a warrant to the claimant payable
 10 from the county general fund for the amount due the claimant under
 11 this section.

12 (b) In the June or December settlement and apportionment of taxes,
 13 or both the June and December settlement and apportionment of taxes,
 14 immediately following a refund made under this section the county
 15 auditor shall deduct the amount refunded from the gross tax collections
 16 of the taxing units for which the refunded taxes were originally paid
 17 and shall pay the amount so deducted into the general fund of the
 18 county. However, the county auditor shall make the deductions and
 19 payments required by this subsection not later than the December
 20 settlement and apportionment.

21 SECTION 15. IC 6-1.1-28-1, AS AMENDED BY P.L.198-2001,
 22 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 1. (a) Each county shall have a county
 24 property tax assessment board of appeals composed of individuals who
 25 are at least eighteen (18) years of age and knowledgeable in the
 26 valuation of property. In addition to the county assessor, only one (1)
 27 other individual who is an officer or employee of a county or township
 28 may serve on the board of appeals in the county in which the individual
 29 is an officer or employee. The fiscal body of the county shall appoint
 30 two (2) individuals to the board. At least one (1) of the members
 31 appointed by the county fiscal body must be a certified level two
 32 assessor-appraiser. The board of commissioners of the county shall
 33 appoint two (2) freehold members so that not more than three (3) of the
 34 five (5) members may be of the same political party and so that at least
 35 three (3) of the five (5) members are residents of the county. At least
 36 one (1) of the members appointed by the board of county
 37 commissioners must be a certified level two assessor-appraiser.
 38 However, if the county assessor is a certified level ~~2~~ **Indiana two**
 39 assessor-appraiser, the board of county commissioners may waive the
 40 requirement in this subsection that one (1) of the freehold members
 41 appointed by the board of county commissioners must be a certified
 42 level ~~2~~ **Indiana two** assessor-appraiser. A person appointed to a

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1 property tax assessment board of appeals may serve on the property tax
 2 assessment board of appeals of another county at the same time. The
 3 members of the board shall elect a president. The employees of the
 4 county assessor shall provide administrative support to the property tax
 5 assessment board of appeals. The county assessor is a voting member
 6 of the property tax assessment board of appeals. The county assessor
 7 shall serve as secretary of the board. The secretary shall keep full and
 8 accurate minutes of the proceedings of the board. A majority of the
 9 board **that includes at least one (1) certified level two**
 10 **assessor-appraiser** constitutes a quorum for the transaction of
 11 business. Any question properly before the board may be decided by
 12 the agreement of a majority of the whole board.

13 (b) The county assessor, county fiscal body, and board of county
 14 commissioners may agree to waive the requirement in subsection (a)
 15 that not more than three (3) of the five (5) members of the county
 16 property tax assessment board of appeals may be of the same political
 17 party if it is necessary to waive the requirement due to the absence of
 18 certified level ~~2~~ **two** Indiana assessor-appraisers:

- 19 (1) who are willing to serve on the board; and
- 20 (2) whose political party membership status would satisfy the
 21 requirement in subsection (c)(1).

22 (c) If the board of county commissioners is not able to identify at
 23 least two (2) prospective freehold members of the county property tax
 24 assessment board of appeals who are:

- 25 (1) residents of the county;
- 26 (2) certified level ~~2~~ **two** Indiana assessor-appraisers; and
- 27 (3) willing to serve on the county property tax assessment board
 28 of appeals;

29 it is not necessary that at least three (3) of the five (5) members of the
 30 county property tax assessment board of appeals be residents of the
 31 county.

32 SECTION 16. IC 6-1.1-30-1.1, AS ADDED BY P.L.198-2001,
 33 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 1.1. (a) The department of local government
 35 finance is established.

36 (b) **The governor shall appoint an individual with appropriate**
 37 **training and experience as commissioner of the department. The**
 38 **commissioner:**

- 39 (1) **is the executive and chief administrative officer of the**
 40 **department;**
- 41 (2) **may delegate authority to appropriate department staff;**
- 42 (3) **serves at the pleasure of the governor; and**

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(4) is entitled to receive compensation in an amount set by the governor, subject to approval by the budget agency.

SECTION 17. IC 33-3-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The tax court shall establish a small claims docket for processing:

- (1) claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year; and
- (2) appeals of final determinations of assessed value made by the ~~state board of tax commissioners~~ **Indiana board of tax review** that do not exceed forty-five thousand dollars (\$45,000).

(b) The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

SECTION 18. IC 33-3-5-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001 (RETROACTIVE)]: **Sec. 14.1. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding asserting the invalidity.**

(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under section 15 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;**
- (2) contrary to constitutional right, power, privilege, or immunity;**
- (3) in excess of or short of statutory jurisdiction, authority, or limitations;**
- (4) without observance of procedure required by law; or**
- (5) unsupported by substantial or reliable evidence.**

(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

SECTION 19. IC 33-3-5-14.2, AS ADDED BY P.L.198-2001, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.2. (a) The office of the

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1 attorney general shall represent a township assessor, **an executive (as**
2 **defined in IC 36-1-2-5) of a township who performs the duties of a**
3 **township assessor under IC 36-6-5-2, a county assessor, a county**
4 **auditor, a member of a county property tax assessment board of**
5 **appeals, or a county property tax assessment board of appeals that:**

6 (1) made an original determination that is the subject of a judicial
7 proceeding in the tax court; and

8 (2) is a defendant in a judicial proceeding in the tax court.

9 (b) Notwithstanding representation by the office of the attorney
10 general, the duty of discovery is on the parties to the judicial
11 proceeding.

12 (c) Discovery conducted under subsection (b) shall be limited to
13 production of documents from the administrative law judge presiding
14 over the review under IC 6-1.1-15-3. The administrative law judge
15 shall not be summoned to testify before the tax court unless verified
16 proof is offered to the tax court that the impartiality of the
17 administrative law judge was compromised concerning the review.

18 (d) A township assessor, **an executive (as defined in IC 36-1-2-5)**
19 **of a township who performs the duties of a township assessor**
20 **under IC 36-6-5-2, a county assessor, a county auditor, a member of**
21 **a county property tax assessment board of appeals, or a county property**
22 **tax assessment board of appeals:**

23 (1) may seek relief from the tax court to establish that the Indiana
24 board of tax review rendered a decision that was:

25 (1) (A) an abuse of discretion;

26 (2) (B) arbitrary and capricious;

27 (3) (C) contrary to substantial or reliable evidence; or

28 (4) (D) contrary to law; and

29 (2) **may not be represented by the office of the attorney**
30 **general in an action initiated under subdivision (1).**

31 SECTION 20. IC 36-2-5-3, AS AMENDED BY P.L.198-2001,
32 SECTION 104, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) The
34 county fiscal body shall fix the compensation of officers, deputies, and
35 other employees whose compensation is payable from the county
36 general fund, county highway fund, county health fund, county park
37 and recreation fund, aviation fund, or any other fund from which the
38 county auditor issues warrants for compensation. This includes the
39 power to:

40 (1) fix the number of officers, deputies, and other employees;

41 (2) describe and classify positions and services;

42 (3) adopt schedules of compensation; and

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1 (4) hire or contract with persons to assist in the development of
2 schedules of compensation.

3 (b) The county fiscal body shall ~~fix the annual compensation of~~
4 **provide for** a county assessor who has attained a level two certification
5 under IC 6-1.1-35.5 ~~at an amount that is to receive annually~~ one
6 thousand dollars (\$1,000), ~~more than which is in addition to and not~~
7 **part of** the annual compensation of ~~an the~~ assessor. ~~who has not~~
8 ~~attained a level two certification.~~ The county fiscal body shall ~~fix the~~
9 ~~annual compensation of~~ **provide for** a county or township deputy
10 assessor who has attained a level two certification under IC 6-1.1-35.5
11 ~~at an amount that is to receive annually~~ five hundred dollars (\$500),
12 ~~more than which is in addition to and not part of~~ the annual
13 compensation of ~~a the~~ county or township deputy assessor. ~~who has not~~
14 ~~attained a level two certification.~~

15 (c) Notwithstanding subsection (a), the board of each local health
16 department shall prescribe the duties of all its officers and employees,
17 recommend the number of positions, describe and classify positions
18 and services, adopt schedules of compensation, and hire and contract
19 with persons to assist in the development of schedules of
20 compensation.

21 (d) This section does not apply to community corrections programs
22 (as defined in IC 11-12-1-1 and IC 35-38-2.6-2).

23 SECTION 21. IC 36-2-9-20 IS ADDED TO THE INDIANA CODE
24 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE
25 UPON PASSAGE]: **Sec. 20. The county auditor shall:**

- 26 **(1) maintain an electronic data file of the information**
- 27 **contained on the tax duplicate for all:**
 - 28 **(A) parcels; and**
 - 29 **(B) personal property returns;**
- 30 **for each township in the county as of each assessment date;**
- 31 **(2) maintain the file in the form required by:**
 - 32 **(A) the legislative services agency; and**
 - 33 **(B) the department of local government finance; and**
- 34 **(3) transmit the data in the file with respect to the assessment**
- 35 **date of each year before October 1 of the year to:**
 - 36 **(A) the legislative services agency; and**
 - 37 **(B) the department of local government finance.**

38 SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE
39 UPON PASSAGE]: IC 6-1.1-4-13.8; IC 6-1.1-33; IC 6-1.1-38.

40 SECTION 23. P.L.198-2001, SECTION 117, IS AMENDED TO
41 READ AS FOLLOWS [EFFECTIVE JULY 1, 2001
42 (RETROACTIVE)]: SECTION 117. (a) IC 6-1.1-15-3 and

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1 IC 6-1.1-15-4, both as amended by ~~this act~~, **P.L.198-2001**, apply to
 2 petitions for review filed under IC 6-1.1-15-3, as amended by ~~this act~~;
 3 **P.L.198-2001**, with respect to notices of action of the county property
 4 tax assessment board of appeals issued after December 31, 2001.

5 (b) IC 6-1.1-15-5 and IC 6-1.1-15-6, both as amended by ~~this act~~;
 6 **P.L.198-2001**, apply to petitions for judicial review of final
 7 determinations issued under IC 6-1.1-15-4, as amended by ~~this act~~;
 8 **P.L.198-2001**, after December 31, 2001.

9 (c) Petitions for review filed under IC 6-1.1-15-3 with respect to
 10 notices of action of the county property tax assessment board of appeals
 11 issued before January 1, 2002, that are pending before the state board
 12 of tax commissioners on December 31, 2001:

13 (1) are transferred to the Indiana board of tax review; and

14 (2) are subject to the law in effect before amendments under ~~this~~
 15 ~~act~~: **P.L.198-2001**.

16 The state board of tax commissioners shall transfer to the Indiana board
 17 of tax review by January 1, 2002, the records relating to each petition
 18 for review referred to in this subsection.

19 (d) **Except as provided in subsection (e)**, appeals initiated under
 20 IC 6-1.1-15-5 of final determinations of the state board of tax
 21 commissioners issued before January 1, 2002, are subject to the law in
 22 effect before amendments under ~~this act~~: **P.L.198-2001**.

23 (e) **Appeals initiated under IC 6-1.1-15-5 of final determinations**
 24 **of the state board of tax commissioners issued after June 30, 2001,**
 25 **and before January 1, 2002, are subject to IC 33-3-5-14.7, as added**
 26 **by P.L.198-2001.**

27 (f) IC 33-3-5-14, as amended by ~~this act~~, **P.L.198-2001**, and
 28 IC 33-3-5-14.2, IC 33-3-5-14.5, and IC 33-3-5-14.8, all as added by ~~this~~
 29 ~~act~~, **P.L.198-2001**, apply to appeals initiated under IC 6-1.1-15-5, as
 30 amended by ~~this act~~, **P.L.198-2001**, of final determinations of the
 31 Indiana board of tax review issued after December 31, 2001.

32 (⊕) (g) The following, each as amended by ~~this act~~, **P.L.198-2001**,
 33 apply to refunds on refund claims filed after December 31, 2001:

34 IC 6-1.1-26-2

35 IC 6-1.1-26-3

36 IC 6-1.1-26-4

37 IC 6-1.1-26-5.

38 SECTION 24. [EFFECTIVE UPON PASSAGE] **The appointment**
 39 **by the governor of the commissioner of the department of local**
 40 **government finance before the effective date of this act is legalized**
 41 **and validated as if the appointment had been made on or after the**
 42 **effective date of this act.**



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1 SECTION 25. **An emergency is declared for this act.**

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