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**FISCAL IMPACT STATEMENT**

**LS 6685**

**BILL NUMBER: HB 1055**

**NOTE PREPARED: Mar 9, 2004**

**BILL AMENDED: Mar 4, 2004**

**SUBJECT:** Various Tax Matters.

**FIRST AUTHOR:** Rep. Mays

**FIRST SPONSOR:** Sen. Borst

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Baseball and Softball League Property Tax Exemptions:* This bill grants a youth baseball and softball organization an additional period in which to file an application for a property tax exemption.

*CREDs:* This bill provides that a taxpayer that is otherwise entitled to a Community Revitalization Enhancement District (CRED) Tax Credit may claim the credit regardless of whether any incremental income or sales taxes have been deposited in the Incremental Tax Financing Fund established for the district or have been allocated to the district. The bill provides that a district must terminate not later than 15 years after incremental income or sales taxes are first allocated to the district. It also provides that if the Budget Agency fails to act on an ordinance or a resolution designating a district within 120 days, the ordinance or resolution is considered approved. The bill permits an advisory commission on industrial development or the executive of a municipality or county to petition the Budget Agency for permission to modify the boundaries of a district. The bill establishes a procedure and criteria for appealing a decision by the Department of State Revenue that a taxpayer is not eligible for the Community Revitalization Enhancement District Tax Credit because the taxpayer's business relocated operations into the district from another location in Indiana.

*CEDIT Revenue in Randolph County:* The bill provides that the Randolph County Council may use revenue generated from the county economic development income tax imposed at a rate of 0.25% to finance the construction, acquisition, renovation, and equipping of the county courthouse.

*Property Tax Exemptions:* The bill allows certain taxpayers to retroactively claim missed property tax exemptions. It also allows certain taxpayers to file an amended personal property tax return for the 2001 assessment date.

**Effective Date:** Upon passage; January 1, 2001 (retroactive); July 1, 2004.

**Explanation of State Expenditures:** *CREDs:* The State Budget Committee and State Budget Agency must review proposed boundary modifications for Community Revitalization Enhancement Districts. The changes made by the bill could potentially create additional administrative demands for the Department of State Revenue (DOR) in determining eligibility for the Community Revitalization Enhancement District Tax Credit. However, the additional demands presumably can be absorbed given DOR's existing budget and resources, since the DOR already conducts the determination process and there are reportedly only three CREDs operating at this time - in Bloomington, Marion, and South Bend. DOR also must calculate the base income tax amount and the base gross retail amount for areas added to a CRED under an approved boundary modification.

**Explanation of State Revenues:** *CRED Tax Credit:* The bill provides that a taxpayer who is otherwise entitled to the CRED Tax Credit for a taxable year may claim the credit regardless of whether incremental income or Sales Tax revenue has been: (1) deposited in an incremental tax financing fund or (2) allocated to the CRED. This provision is expected to result in no fiscal impact, as current statute does not prohibit a taxpayer from claiming the credit under the conditions specified above in (1) and (2).

Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a CRED is entitled to the CRED Tax Credit. The tax credit is based on 25% of the qualified investment. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. The tax credit may be used to reduce the taxpayer's tax liability against the Adjusted Gross Income Tax, CAGIT, COIT, CEDIT, the Insurance Premiums Tax, and the Financial Institutions Tax. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district.

*Reduction in Operations Outside a CRED:* The bill changes the conditions under which a taxpayer that reduces operations elsewhere in Indiana to relocate operations in a CRED remains eligible for the CRED Tax Credit. Potentially, the changes could increase the number of individual and corporate taxpayers that qualify for the CRED Tax Credit. However, the increase in qualified taxpayers and the fiscal impact as a result are indeterminable.

Under current statute, a taxpayer is not entitled to the tax credit to the extent that the taxpayer substantially reduces or ceases its operations elsewhere in Indiana to relocate them within a CRED. However, a taxpayer that reduces or ceases operations remains eligible for the tax credit provided: (1) the taxpayer had existing operations in the CRED; and (2) the operations relocated to the CRED are an expansion of the taxpayer's operations in the CRED. Current statute requires the DOR to make eligibility determinations. This condition for eligibility for taxpayers that reduce operations elsewhere in Indiana is not changed by the bill.

The bill specifies reductions in operations that are *substantial* and would disqualify a taxpayer from claiming the CRED Tax Credit. However, the bill also specifies additional conditions under which a taxpayer that reduces operations elsewhere in Indiana remains eligible for the CRED Tax Credit. The additional eligibility conditions require that the taxpayer relocates all or part of its non-CRED operations for any of the reasons specified below in (A) through (F); or (2) the taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the non-CRED operation with their consent. (Note: Condition (F) below is specified in current law.)

(A) The lease on property necessary for the non-CRED operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the non-CRED operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the non-CRED operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the non-CRED operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the non-CRED operation are more than 1.5 times the costs of purchase, renovation, and construction of a facility in the CRED, as certified by three independent estimates.

(F) The taxpayer had existing operations in the district, and the nondistrict operations relocated to the district are an expansion of the taxpayer's operations in the district.

The bill also provides that a taxpayer remains eligible for the credit under (C) or (D) only if the criteria in (E) are also met.

### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *CRED Expansion and Expiration:* The bill would allow an existing CRED to be expanded, provided the State Budget Committee and the State Budget Agency find that the area to be added to a CRED meets the criteria required for CRED designation. The bill requires the advisory commission on industrial development or the county or municipal legislative body that designated the CRED to submit a petition for approval of the boundary modifications to the State Budget Committee and State Budget Agency. The bill specifies a method to be used by the DOR to determine the gross retail and income tax base period amounts for the area added to a CRED. The bill also specifies deadlines within which this determination must be made. The impact of this change is indeterminable, but would depend on the potential for expansion of the CREDs currently operating or those that may operate in the future.

The bill also changes the expiration of a CRED from 15 years from the time of designation to 15 years after incremental income or Sales Taxes are allocated to the CRED. Depending upon the time that elapses from the time of designation to the time at which incremental income or Sales Tax revenue is generated in a CRED, this change could potentially increase the number of years that incremental revenue is diverted to a CRED.

Current statute authorizes the designation of CREDs in the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph Counties. P.L. 224-2003 also authorized the City of Indianapolis and all second class cities to designate CREDs. CREDs have been established in Bloomington, Marion, and South Bend. Only two distributions of incremental sales and income taxes have been made. Bloomington has received \$492,005, and Marion has received \$24,241. The following taxes may be allocated to a CRED: Gross Retail and Use Taxes, the Adjusted Gross Income Tax, and CAGIT, COIT, and CEDIT. Incremental tax allocations to CREDs designated under P.L. 224-2003 are limited to 75% of the incremental tax revenue up to \$750,000 per year. Allocations to other CREDs are limited to \$1.0 M per year in incremental tax revenues. This revenue is to be deposited in the Industrial Development Fund of the city designating the CRED. A CRED is limited to 15 years at the time of designation. Current law also allows all taxing units, except townships, to impose a levy for the Industrial Development Fund at a rate of up to \$0.0167 per \$100 of assessed valuation. The proceeds from the tax levy may be pledged for the payment of bonds and obligations issued in a CRED.

*Property Tax Exemptions:* (A) This bill provides that a religious institution may retroactively file for a property tax exemption on real property for property taxes payable in 2001 and 2002 if the organization (1) acquired the property in 1999, (2) the property was exempt from property tax in 2000, and (3) the organization failed to file the required exemption application for 2001 and 2002 taxes. The exemption application would be subject to review and action by the county property tax assessment board of appeals and the Department of Local Government Finance; and is subject to appeal. If an exemption application is

approved, the religious institution may file a claim with the county auditor for a refund for the payment of property taxes first due and payable in 2001 and in 2002 with respect to the exempt property. One taxpayer in Evansville has been identified as meeting the conditions of this provision. The provision would exempt about \$12,000 in tax liability for each of the two years. No interest is payable on the refund. Refunds of property taxes reduce the current year property tax revenue for taxing units that provide services to the property.

(B) Another provision in the bill would allow a taxpayer in Marion County to file an amended business personal property tax return for taxes paid in 2002 in order to claim an industrial waste control facility exemption, an industrial air purification exemption, and an interstate commerce exemption for finished goods inventory to be shipped out of state. The taxpayer would also be permitted to file an application for an abatement deduction for taxes paid in 2002. The taxpayer would receive a credit against taxes due in 2004 and later years until the credit is exhausted. The county auditor could, however, refund the remaining credit at any time. One taxpayer has been identified as meeting the conditions of this provision. The credits and refunds allowed by this provision would reduce current year and future property tax revenue for taxing units that provide services to the property until the credit is exhausted. The total credit is estimated at \$787,000.

(C) This bill provides that a religious institution may retroactively file for a property tax exemption on real property for property taxes payable in 2001, 2002, 2003, and 2004 if the organization (1) acquired the property in 2000 under contract with another religious institution, (2) the property was exempt from property tax in 2000, and (3) the organization failed to file the required exemption application for 2001, 2002, 2003, and 2004 taxes. The exemption application would be subject to review and action by the county property tax assessment board of appeals and the Department of Local Government Finance; and is subject to appeal. If an exemption application is approved, the religious institution may file a claim with the county auditor for a refund for the payment of property taxes first due and payable in 2001, 2002, 2003, and 2004 with respect to the exempt property. One taxpayer in Indianapolis has been identified as meeting the conditions of this provision. The provision would exempt about \$86,000 in tax liability over the four years. No interest is payable on the refund. Refunds of property taxes reduce the current year property tax revenue for taxing units that provide services to the property.

*Baseball and Softball League Property Tax Exemptions:* The bill provides a taxpayer, that is a nonprofit corporation, can file for a refund of their CY 2001, 2002, and 2003 property taxes if:

1. The property is owned, occupied, and used to provide youths an opportunity to play baseball or softball prior to the 2002 reassessment.
2. The property tax liability first due and payable in 2001, 2002, and 2003 exceeded \$18,000 and was paid in 2003.
3. The owner would have qualified for an exemption if it had been filed in a timely manner.
4. An exemption was granted for 2004.

The provision would apply to the Southport Little League that failed to renew its exemption and was charged \$21,000 in taxes for CY 2001, 2002, and 2003. Since property tax refunds are paid from current property tax collections, the provision would cause a loss in revenue for the taxing units where the property is located. The following table shows the impact on the taxing units that would be affected by the Southport Little League refund.

Unit	2003 Levy	2004 Refund/ Reduction in 2004 Rev.
State Unit	\$955,224	(\$51)
Marion County	163,403,261	(8,660)
Perry Township	6,701,223	(355)
Southport Civil City	155,929	(8)
M.S.D. Perry Township School Corporation	43,921,630	(2,328)
Indianapolis-Marion County Public Library	32,136,015	(1,703)
Indianapolis Sanitation (Liquid)	26,459	(1)
Indianapolis Sanitation (Solid)	22,983,703	(1,218)
Marion County Health and Hospital	76,157,416	(4,036)
<u>Indianapolis Consolidated County</u>	<u>49,816,386</u>	<u>(2,640)</u>
Total	\$396,257,246	(\$21,000)

*CEDIT Revenue for Randolph County:* The bill does not increase the CEDIT rate of Randolph County. The bill allows the county to use CEDIT revenue to finance, construct, acquire, renovate, and equip the county courthouse, and to finance the former county hospital for additional office space.

*Background:* P.L. 291-2001 allowed the Randolph County Council to impose an additional 0.25% CEDIT rate in order to finance, construct, acquire, renovate, and equip the county courthouse, the former county hospital (for additional office space), and other additional projects specified under current law. Following the passage of P.L. 291-2001, the Randolph County Council raised their CEDIT rate from 0.25% to 0.5%.

P.L. 224-2003 removed the provision that allowed Randolph County to use additional CEDIT revenue generated by the rate increase allowed under P.L. 291-2001 for courthouse repairs.

Currently, Randolph County imposes CEDIT at a 0.5% rate and County Adjusted Gross Income Tax (CAGIT) at 1.0% for a combined rate of 1.5%. The Randolph County CY2004 CEDIT certified distribution is \$1,646,035. The county's CY2004 CAGIT certified distribution is \$3,085,744.

**State Agencies Affected:** State Budget Committee, State Budget Agency; Department of State Revenue; Department of Local Government Finance.

**Local Agencies Affected:** Local units with CRED Districts; Certain local units, including Evansville, Randolph County, and certain taxing units in Marion County.

**Information Sources:** Local Government Database; Department of State Revenue; State Budget Agency.

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