
HOUSE BILL No. 1442

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-1-1; IC 6-10.

Synopsis: County option gasoline tax. Allows a county to adopt a county gasoline tax at a rate of four cents, five cents, six cents, seven cents, or eight cents per gallon of gasoline sold in the county. Provides for the administration and collection of the county gasoline tax. Requires the tax revenues to be allocated among the county and the cities and towns located in the county. Provides that the revenue realized from the county gasoline tax is additional revenue available for road maintenance and construction. Provides that the department of local government finance may not reduce a unit's maximum permissible levy because of the additional revenue.

Effective: July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1442



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 6-8.1-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or
3 "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through
4 IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat
5 wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed);
6 the utility receipts tax (IC 6-2.3); the state gross retail and use taxes
7 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
8 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
9 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
10 economic development income tax (IC 6-3.5-7); the municipal option
11 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
12 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
13 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
14 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
15 collected under a reciprocal agreement under IC 6-8.1-3; the motor
16 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
17 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the



1 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 2 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 3 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
 4 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 5 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 6 county admissions tax (IC 6-9-13 and IC 6-9-28); **a county gasoline**
 7 **tax (IC 6-10)**; the oil inspection fee (IC 16-44-2); the emergency and
 8 hazardous chemical inventory form fee (IC 6-6-10); the penalties
 9 assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and
 10 penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the
 11 underground storage tank fee (IC 13-23); the solid waste management
 12 fee (IC 13-20-22); and any other tax or fee that the department is
 13 required to collect or administer.

14 SECTION 2. IC 6-10 IS ADDED TO THE INDIANA CODE AS A
 15 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 16 2005]:

17 **Article 10. COUNTY GASOLINE TAX**

18 **Chapter 1. Application**

19 **Sec. 1. This article does not apply to a county that imposes the**
 20 **county motor vehicle excise surtax under IC 6-3.5-4 and the county**
 21 **wheel tax under IC 6-3.5-5.**

22 **Chapter 2. Definitions**

23 **Sec. 1. The definitions in this chapter apply throughout this**
 24 **article.**

25 **Sec. 2. "Department" refers to the department of state revenue.**

26 **Sec. 3. "Gasoline" has the meaning set forth in IC 6-6-1.1-103.**

27 **Chapter 3. County Gasoline Tax Ordinance Requirements**

28 **Sec. 1. (a) After January 1 but before August 1 of a year, the**
 29 **legislative body of a county may adopt an ordinance to impose a**
 30 **county gasoline tax.**

31 **(b) Before a legislative body may adopt an ordinance imposing**
 32 **a county gasoline tax, the legislative body must hold a public**
 33 **hearing on the proposed ordinance, with notice of the time, date,**
 34 **and place of the public hearing given in accordance with IC 5-3-1.**

35 **(c) If a legislative body adopts an ordinance under this chapter,**
 36 **it shall immediately send a certified copy of the ordinance to the**
 37 **department.**

38 **(d) If the legislative body of a county that is subject to**
 39 **IC 36-2-3.5 or IC 36-3-1 adopts an ordinance to impose a county**
 40 **gasoline tax under this chapter, the ordinance is not effective unless**
 41 **the county executive approves the ordinance. If the legislative body**
 42 **of a county that is not subject to IC 36-2-3.5 or IC 36-3-1 adopts an**

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1 ordinance to impose a county gasoline tax under this chapter, the
2 ordinance is not effective unless the county's fiscal body adopts a
3 substantially similar ordinance to impose the county gasoline tax
4 in the county.

5 (e) If an ordinance to impose a county gasoline tax is adopted by
6 the legislative body of a county and becomes effective under
7 subsection (d), the ordinance takes effect January 1 of the year
8 following the year in which the ordinance is adopted.

9 Sec. 2. The county gasoline tax may be imposed at a rate of:

- 10 (1) four cents (\$0.04);
- 11 (2) five cents (\$0.05);
- 12 (3) six cents (\$0.06);
- 13 (4) seven cents (\$0.07); or
- 14 (5) eight cents (\$0.08);

15 per gallon of gasoline sold in the county.

16 Sec. 3. (a) The legislative body may adopt an ordinance to
17 rescind, decrease, or increase the county gasoline tax rate. An
18 ordinance described in this subsection must be adopted after
19 January 1 but before August 1 of a year.

20 (b) If a county has outstanding bonds, leases, obligations, or
21 other evidences of indebtedness that are payable from the county
22 gasoline tax, the county gasoline tax may not be decreased below
23 a rate that would produce one and twenty-five hundredths (1.25)
24 times the total of the highest annual payment requirements due on
25 the bonds, leases, obligations, or other evidences of indebtedness to
26 their final maturity.

27 (c) For purposes of subsection (b), the determination of a tax
28 rate sufficient to produce one and twenty-five hundredths (1.25)
29 times the total of the highest annual payment requirements shall be
30 based on an average of the collections of the county gasoline tax for
31 the immediately preceding three (3) years, if the tax has been
32 imposed for the preceding three (3) years. If the county gasoline
33 tax has not been imposed for the preceding three (3) years, the
34 county gasoline tax may not be reduced below a rate that would
35 produce one and twenty-five hundredths (1.25) times the total of
36 the highest annual payment requirements due on the bonds, leases,
37 obligations, or other evidences of indebtedness, based on a study by
38 a qualified public accountant or financial adviser.

39 Sec. 4. If no bonds, leases, obligations, or other evidences of
40 indebtedness that are payable from the county gasoline tax are
41 outstanding, the legislative body that imposed a county gasoline tax
42 may adopt an ordinance to repeal the county gasoline tax. The

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1 ordinance to repeal the tax must be adopted before August 1 of a
2 year.

3 Chapter 4. Collection Procedures for County Gasoline Taxes

4 Sec. 1. A county gasoline tax imposed under IC 6-10-3 shall be
5 imposed, paid, and collected in the same manner that the state
6 gasoline tax is imposed, paid, and collected under IC 6-6-1.1.
7 However, the return that is filed for the payment of the tax may be
8 a separate return or may be combined with the return filed for the
9 payment of the state gasoline tax as prescribed by the department.

10 Sec. 2. (a) The department shall notify the county auditor of a
11 county that imposes a county gasoline tax under IC 6-10-3 of the
12 amount of the tax paid in the county.

13 (b) The amounts received from taxes imposed under IC 6-10-3
14 shall be paid monthly by the treasurer of state on warrants issued
15 by the auditor of state to the county treasurer.

16 Sec. 3. If a county imposes a county gasoline tax under
17 IC 6-10-3, the county treasurer shall establish a county gasoline tax
18 fund into which all amounts received monthly from the treasurer
19 of state shall be deposited.

20 Sec. 4. (a) Before the twentieth day of each month, the county
21 auditor shall allocate the money deposited in the county gasoline
22 tax fund during that month among the county and the cities and
23 the towns in the county as follows:

24 (1) In a county having a population of more than fifty
25 thousand (50,000), sixty percent (60%) of the money shall be
26 distributed on the basis of the population of the city or town
27 as a percentage of the total population of the county and forty
28 percent (40%) shall be distributed on the basis of the ratio of
29 city and town street mileage to county road mileage.

30 (2) In a county having a population of fifty thousand (50,000)
31 or less, twenty percent (20%) of the money shall be
32 distributed on the basis of the population of the city or town
33 as a percentage of the total population of the county and
34 eighty percent (80%) shall be distributed on the basis of the
35 ratio of city and town street mileage to county road mileage.

36 (3) For purposes of allocating funds as provided in this
37 section, a town that becomes incorporated as a town between
38 the effective dates of decennial censuses shall be eligible for
39 allocations upon the effectiveness of a corrected population
40 count for the town under IC 1-1-3.5.

41 (b) Before the twenty-fifth day of each month, the county
42 treasurer shall distribute to the county and the cities and towns in

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1 the county the money deposited in the county gasoline tax fund
2 during that month. The county treasurer shall base the distribution
3 on allocations made by the county auditor for that month under
4 subsection (a).

5 Sec. 5. A county gasoline tax imposed under this article is a
6 listed tax for purposes of IC 6-8.1-1.

7 Chapter 5. Use of Revenue

8 Sec. 1. Revenue derived from the imposition of a county gasoline
9 tax under this article may be treated by each unit as additional
10 revenue for the purpose of fixing its budget for the budget year
11 during which the revenues are to be distributed to the county.

12 Sec. 2. A unit may use revenues from the imposition of a county
13 gasoline tax for any of the following purposes:

- 14 (1) Paying debt service or lease rentals on:
 - 15 (A) bonds;
 - 16 (B) leases;
 - 17 (C) obligations; or
 - 18 (D) any other evidence of indebtedness of the unit incurred
19 to finance a road construction project.
- 20 (2) Paying the costs of any road construction project.
- 21 (3) As operating revenue for the maintenance of the unit's
22 roads.

23 Sec. 3. The department of local government finance may not
24 reduce a unit's property tax levy by the amount of revenue
25 received from a county gasoline tax.

26 Chapter 6. Covenants

27 Sec. 1. The general assembly covenants with the respective units
28 and the purchasers and owners of bonds, leases, obligations, or any
29 other evidences of indebtedness of a unit payable from a county
30 gasoline tax imposed under this article that this article will not be
31 repealed or amended in any manner that will adversely affect the
32 imposition or collection of a tax imposed under this article so long
33 as the principal, interest, or lease rentals due under those bonds,
34 leases, obligations, or other evidences of indebtedness of a unit that
35 are payable from a tax imposed under this article remain unpaid.

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