

HOUSE BILL No. 1754

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5

Synopsis: Local income tax distributions. Limits the extent to which a taxing unit may experience a decrease from one year to the next of the taxing unit's share of county adjusted gross income tax revenue, county option income tax revenue, or county economic development income tax revenue.

Effective: January 1, 2006.

Thompson

January 19, 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. 1754



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 6-3.5-1.1-12 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The part
 3 of a county's certified distribution for a calendar year that is to be used
 4 as property tax replacement credits shall be allocated by the county
 5 auditor among the civil taxing units and school corporations of the
 6 county.

7 (b) Except as provided in **subsection (d) and** section 13 of this
 8 chapter, the amount of property tax replacement credits that each civil
 9 taxing unit and school corporation in a county is entitled to receive
 10 during a calendar year equals the product of:

11 (1) that part of the county's certified distribution that is dedicated
 12 to providing property tax replacement credits for that same
 13 calendar year; multiplied by

14 (2) a fraction:

15 (A) The numerator of the fraction equals the sum of the total
 16 property taxes being collected by the civil taxing unit or school
 17 corporation during that calendar year, plus with respect to a



1 civil taxing unit, the amount of federal revenue sharing funds
2 and certified shares received by it during that calendar year to
3 the extent that they are used to reduce its property tax levy
4 below the limit imposed by IC 6-1.1-18.5 for that same
5 calendar year.

6 (B) The denominator of the fraction equals the sum of the total
7 property taxes being collected by all civil taxing units and
8 school corporations, plus the amount of federal revenue
9 sharing funds and certified shares received by all civil taxing
10 units in the county to the extent that they are used to reduce
11 the civil taxing units' property tax levies below the limits
12 imposed by IC 6-1.1-18.5 for that same calendar year.

13 (c) The department of local government finance shall provide each
14 county auditor with the amount of property tax replacement credits that
15 each civil taxing unit and school corporation in the auditor's county is
16 entitled to receive. The county auditor shall then certify to each civil
17 taxing unit and school corporation the amount of property tax
18 replacement credits it is entitled to receive (after adjustment made
19 under section 13 of this chapter) during that calendar year. The county
20 auditor shall also certify these distributions to the county treasurer.

21 (d) **A civil taxing unit or school corporation is entitled to receive**
22 **at least the amount of property tax replacement credits determined**
23 **in STEP SEVEN of the following formula:**

24 **STEP ONE: Determine the county's distribution used as**
25 **property tax replacement credits in the immediately**
26 **preceding calendar year.**

27 **STEP TWO: Determine the county's distribution used as**
28 **property tax replacement credits in the current calendar year.**

29 **STEP THREE: If the STEP ONE result is zero (0), the result**
30 **of this STEP is one (1). If the STEP ONE result is not zero (0),**
31 **divide the STEP TWO result by the STEP ONE result.**

32 **STEP FOUR: Determine the lesser of the STEP THREE**
33 **result and one (1).**

34 **STEP FIVE: Determine the amount of property tax**
35 **replacement credits distributed to the civil taxing unit or**
36 **school corporation in the immediately preceding year under**
37 **this section or section 13 of this chapter.**

38 **STEP SIX: Multiply the STEP FOUR result by the STEP**
39 **FIVE result.**

40 **STEP SEVEN: Multiply the STEP SIX result by ninety-eight**
41 **hundredths (0.98).**

42 **If for a calendar year a civil taxing unit or school corporation is**

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1 allocated a proportion of a county's property tax replacement
 2 credits under this subsection, the formula used in subsection (b) to
 3 determine all other civil taxing units' and school corporations'
 4 property tax replacement credits shall be changed for that same
 5 year by reducing the amount dedicated to providing property tax
 6 replacement credits by the amount of property tax replacement
 7 credits allocated under this subsection for that same calendar year.
 8 The department of local government finance shall make any
 9 adjustments required by this subsection and provide them to the
 10 appropriate county auditors.

11 SECTION 2. IC 6-3.5-1.1-13 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13. (a) If a civil
 13 taxing unit or school corporation of an adopting county does not
 14 impose a property tax levy that is first due and payable in a calendar
 15 year in which property tax replacement credits are being distributed,
 16 that civil taxing unit or school corporation is entitled to receive a
 17 proportion of the property tax replacement credits to be distributed
 18 within the county. **Except as provided in subsection (c)**, the amount
 19 such a civil taxing unit or school corporation is entitled to receive
 20 during that calendar year equals the product of:

21 (1) the part of the county's certified distribution that is to be used
 22 to provide property tax replacement credits during that calendar
 23 year; multiplied by

24 (2) a fraction:
 25 (A) The numerator of the fraction equals the budget of that
 26 civil taxing unit or school corporation for that calendar year.
 27 (B) The denominator of the fraction equals the aggregate
 28 budgets of all civil taxing units and school corporations of that
 29 county for that calendar year.

30 (b) If for a calendar year a civil taxing unit or school corporation is
 31 allocated a proportion of a county's property tax replacement credits by
 32 this section then the formula used in section 12 of this chapter to
 33 determine all other civil taxing units' and school corporations' property
 34 tax replacement credits shall be changed for that same year by reducing
 35 the amount dedicated to providing property tax replacement credits by
 36 the amount of property tax replacement credits allocated under this
 37 section for that same calendar year. The department of local
 38 government finance shall make any adjustments required by this
 39 section and provide them to the appropriate county auditors.

40 (c) **A civil taxing unit or school corporation is entitled to receive**
 41 **at least the amount of property tax replacement credits determined**
 42 **in STEP SEVEN of the following formula:**

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- 1 **STEP ONE: Determine the certified distribution to the county**
- 2 **of adjusted gross income tax revenue under section 9 of this**
- 3 **chapter for the immediately preceding calendar year.**
- 4 **STEP TWO: Determine the certified distribution to the**
- 5 **county of adjusted gross income tax revenue under section 9**
- 6 **of this chapter for the current calendar year.**
- 7 **STEP THREE: If the STEP ONE result is zero (0), the result**
- 8 **of this STEP is one (1). If the STEP ONE result is not zero (0),**
- 9 **divide the STEP TWO result by the STEP ONE result.**
- 10 **STEP FOUR: Determine the lesser of the STEP THREE**
- 11 **result and one (1).**
- 12 **STEP FIVE: Determine the amount of property tax**
- 13 **replacement credits distributed to the civil taxing unit or**
- 14 **school corporation in the immediately preceding year under**
- 15 **this section or section 12 of this chapter.**
- 16 **STEP SIX: Multiply the STEP FOUR result by the STEP**
- 17 **FIVE result.**
- 18 **STEP SEVEN: Multiply the STEP SIX result by ninety-eight**
- 19 **hundredths (0.98).**

20 SECTION 3. IC 6-3.5-1.1-15 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) As used
 22 in this section, "attributed levy" of a civil taxing unit means the sum of:

- 23 (1) the ad valorem property tax levy of the civil taxing unit that is
- 24 currently being collected at the time the allocation is made; plus
- 25 (2) the current ad valorem property tax levy of any special taxing
- 26 district, authority, board, or other entity formed to discharge
- 27 governmental services or functions on behalf of or ordinarily
- 28 attributable to the civil taxing unit; plus
- 29 (3) the amount of federal revenue sharing funds and certified
- 30 shares that were used by the civil taxing unit (or any special
- 31 taxing district, authority, board, or other entity formed to
- 32 discharge governmental services or functions on behalf of or
- 33 ordinarily attributable to the civil taxing unit) to reduce its ad
- 34 valorem property tax levies below the limits imposed by
- 35 IC 6-1.1-18.5; plus
- 36 (4) in the case of a county, an amount equal to the property taxes
- 37 imposed by the county in 1999 for the county's welfare fund and
- 38 welfare administration fund.

39 (b) The part of a county's certified distribution that is to be used as
 40 certified shares shall be allocated only among the county's civil taxing
 41 units. **Except as provided in subsection (e)**, each civil taxing unit of
 42 a county is entitled to receive a percentage of the certified shares to be

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1 distributed in the county equal to the ratio of its attributed levy to the
2 total attributed levies of all civil taxing units of the county.

3 (c) The local government tax control board established by
4 IC 6-1.1-18.5-11 shall determine the attributed levies of civil taxing
5 units that are entitled to receive certified shares during a calendar year.
6 If the ad valorem property tax levy of any special taxing district,
7 authority, board, or other entity is attributed to another civil taxing unit
8 under subsection (b)(2), then the special taxing district, authority,
9 board, or other entity shall not be treated as having an attributed levy
10 of its own. The local government tax control board shall certify the
11 attributed levy amounts to the appropriate county auditor. The county
12 auditor shall then allocate the certified shares among the civil taxing
13 units of the auditor's county.

14 (d) Certified shares received by a civil taxing unit shall be treated
15 as additional revenue for the purpose of fixing its budget for the
16 calendar year during which the certified shares will be received. The
17 certified shares may be allocated to or appropriated for any purpose,
18 including property tax relief or a transfer of funds to another civil
19 taxing unit whose levy was attributed to the civil taxing unit in the
20 determination of its attributed levy.

21 (e) **Under this section, a civil taxing unit must receive a certified
22 share amount greater than or equal to the amount determined in
23 STEP SEVEN of the following STEPS:**

24 **STEP ONE: Determine the certified distribution to the county
25 of adjusted gross income tax revenue under section 9 of this
26 chapter for the immediately preceding calendar year.**

27 **STEP TWO: Determine the certified distribution to the
28 county of adjusted gross income tax revenue under section 9
29 of this chapter for the current calendar year.**

30 **STEP THREE: If the STEP ONE result is zero (0), the result
31 of this STEP is one (1). If the STEP ONE result is not zero (0),
32 divide the STEP TWO result by the STEP ONE result.**

33 **STEP FOUR: Determine the lesser of the STEP THREE
34 result and one (1).**

35 **STEP FIVE: Determine the certified share amount
36 distributed to the civil taxing unit in the immediately
37 preceding year.**

38 **STEP SIX: Multiply the STEP FOUR result by the STEP
39 FIVE result.**

40 **STEP SEVEN: Multiply the STEP SIX result by ninety-eight
41 hundredths (0.98).**

42 **If for a calendar year a civil taxing unit is allocated a proportion**

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1 of a county's certified shares by this subsection, the amount
 2 determined under subsection (b) for all other civil taxing units'
 3 certified shares shall be changed for that same year by reducing
 4 the amount dedicated to providing certified shares by the amount
 5 of certified shares allocated under this subsection for that same
 6 calendar year. The department of local government finance shall
 7 make any adjustments required by this subsection and provide
 8 them to the local government tax control board.

9 SECTION 4. IC 6-3.5-6-18 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 18. (a) The
 11 revenue a county auditor receives under this chapter shall be used to:

- 12 (1) replace the amount, if any, of property tax revenue lost due to
 13 the allowance of an increased homestead credit within the county;
 14 (2) fund the operation of a public communications system and
 15 computer facilities district as provided in an election, if any, made
 16 by the county fiscal body under IC 36-8-15-19(b);
 17 (3) fund the operation of a public transportation corporation as
 18 provided in an election, if any, made by the county fiscal body
 19 under IC 36-9-4-42;
 20 (4) make payments permitted under IC 36-7-15.1-17.5;
 21 (5) make payments permitted under subsection (i); and
 22 (6) make distributions of distributive shares to the civil taxing
 23 units of a county.

24 (b) The county auditor shall retain from the payments of the county's
 25 certified distribution, an amount equal to the revenue lost, if any, due
 26 to the increase of the homestead credit within the county. This money
 27 shall be distributed to the civil taxing units and school corporations of
 28 the county as though they were property tax collections and in such a
 29 manner that no civil taxing unit or school corporation shall suffer a net
 30 revenue loss due to the allowance of an increased homestead credit.

31 (c) The county auditor shall retain the amount, if any, specified by
 32 the county fiscal body for a particular calendar year under subsection
 33 (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the
 34 county's certified distribution for that same calendar year. The county
 35 auditor shall distribute amounts retained under this subsection to the
 36 county.

37 (d) All certified distribution revenues that are not retained and
 38 distributed under subsections (b) and (c) shall be distributed to the civil
 39 taxing units of the county as distributive shares.

40 (e) **Except as provided in subsection (j)**, the amount of distributive
 41 shares that each civil taxing unit in a county is entitled to receive
 42 during a month equals the product of the following:

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- 1 (1) The amount of revenue that is to be distributed as distributive
 2 shares during that month; multiplied by
 3 (2) A fraction. The numerator of the fraction equals the total
 4 property taxes that are first due and payable to the civil taxing
 5 unit during the calendar year in which the month falls, plus, for a
 6 county, an amount equal to the property taxes imposed by the
 7 county in 1999 for the county's welfare fund and welfare
 8 administration fund. The denominator of the fraction equals the
 9 sum of the total property taxes that are first due and payable to all
 10 civil taxing units of the county during the calendar year in which
 11 the month falls, plus an amount equal to the property taxes
 12 imposed by the county in 1999 for the county's welfare fund and
 13 welfare administration fund.
- 14 (f) The department of local government finance shall provide each
 15 county auditor with the fractional amount of distributive shares that
 16 each civil taxing unit in the auditor's county is entitled to receive
 17 monthly under this section.
- 18 (g) Notwithstanding subsection (e), if a civil taxing unit of an
 19 adopting county does not impose a property tax levy that is first due
 20 and payable in a calendar year in which distributive shares are being
 21 distributed under this section, that civil taxing unit is entitled to receive
 22 a part of the revenue to be distributed as distributive shares under this
 23 section within the county. **Except as provided in subsection (j)**, the
 24 fractional amount such a civil taxing unit is entitled to receive each
 25 month during that calendar year equals the product of the following:
- 26 (1) The amount to be distributed as distributive shares during that
 27 month; multiplied by
 28 (2) A fraction. The numerator of the fraction equals the budget of
 29 that civil taxing unit for that calendar year. The denominator of
 30 the fraction equals the aggregate budgets of all civil taxing units
 31 of that county for that calendar year.
- 32 (h) If for a calendar year a civil taxing unit is allocated a part of a
 33 county's distributive shares by subsection (g) **or (j)**, then the formula
 34 used in subsection (e) to determine all other civil taxing units'
 35 distributive shares shall be changed each month for that same year by
 36 reducing the amount to be distributed as distributive shares under
 37 subsection (e) by the amount of distributive shares allocated under
 38 **subsection subsections (g) and (j)** for that same month. The
 39 department of local government finance shall make any adjustments
 40 required by this subsection and provide them to the appropriate county
 41 auditors.
- 42 (i) Notwithstanding any other law, a county fiscal body may pledge

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1 revenues received under this chapter to the payment of bonds or lease
2 rentals to finance a qualified economic development tax project under
3 IC 36-7-27 in that county or in any other county if the county fiscal
4 body determines that the project will promote significant opportunities
5 for the gainful employment or retention of employment of the county's
6 residents.

7 **(j) Under this section, a civil taxing unit must receive a**
8 **distributive share amount greater than or equal to the amount**
9 **determined in STEP SEVEN of the following STEPS:**

10 **STEP ONE: Determine the certified distribution to the county**
11 **of county option income tax revenue under section 17 of this**
12 **chapter for the immediately preceding calendar year.**

13 **STEP TWO: Determine the certified distribution to the**
14 **county of county option income tax revenue under section 17**
15 **of this chapter for the current calendar year.**

16 **STEP THREE: If the STEP ONE result is zero (0), the result**
17 **of this STEP is one (1). If the STEP ONE result is not zero (0),**
18 **divide the STEP TWO result by the STEP ONE result.**

19 **STEP FOUR: Determine the lesser of the STEP THREE**
20 **result and one (1).**

21 **STEP FIVE: Determine the distributive share amount**
22 **allocated to the civil taxing unit in the immediately preceding**
23 **year under this section.**

24 **STEP SIX: Multiply the STEP FOUR result by the STEP**
25 **FIVE result.**

26 **STEP SEVEN: Multiply the STEP SIX result by ninety-eight**
27 **hundredths (0.98).**

28 SECTION 5. IC 6-3.5-7-12 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) Except as
30 provided in sections 23, 25, 26, and 27 of this chapter, the county
31 auditor shall distribute in the manner specified in this section the
32 certified distribution to the county.

33 (b) Except as provided in subsections (c), ~~and~~ (h), **and (i)** and
34 sections 15 and 25 of this chapter, the amount of the certified
35 distribution that the county and each city or town in a county is entitled
36 to receive during May and November of each year equals the product
37 of the following:

38 (1) The amount of the certified distribution for that month;
39 multiplied by

40 (2) A fraction. The numerator of the fraction equals the sum of the
41 following:

42 (A) Total property taxes that are first due and payable to the

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1 county, city, or town during the calendar year in which the
 2 month falls; plus
 3 (B) For a county, an amount equal to the property taxes
 4 imposed by the county in 1999 for the county's welfare fund
 5 and welfare administration fund.
 6 The denominator of the fraction equals the sum of the total
 7 property taxes that are first due and payable to the county and all
 8 cities and towns of the county during the calendar year in which
 9 the month falls, plus an amount equal to the property taxes
 10 imposed by the county in 1999 for the county's welfare fund and
 11 welfare administration fund.
 12 (c) This subsection applies to a county council or county income tax
 13 council that imposes a tax under this chapter after June 1, 1992. The
 14 body imposing the tax may adopt an ordinance before July 1 of a year
 15 to provide for the distribution of certified distributions under this
 16 subsection instead of a distribution under subsection (b). The following
 17 apply if an ordinance is adopted under this subsection:
 18 (1) The ordinance is effective January 1 of the following year.
 19 (2) Except as provided in sections 25 and 26 of this chapter, the
 20 amount of the certified distribution that the county and each city
 21 and town in the county is entitled to receive during May and
 22 November of each year equals the product of:
 23 (A) the amount of the certified distribution for the month;
 24 multiplied by
 25 (B) a fraction. For a city or town, the numerator of the fraction
 26 equals the population of the city or the town. For a county, the
 27 numerator of the fraction equals the population of the part of
 28 the county that is not located in a city or town. The
 29 denominator of the fraction equals the sum of the population
 30 of all cities and towns located in the county and the population
 31 of the part of the county that is not located in a city or town.
 32 (3) The ordinance may be made irrevocable for the duration of
 33 specified lease rental or debt service payments.
 34 (d) The body imposing the tax may not adopt an ordinance under
 35 subsection (c) if, before the adoption of the proposed ordinance, any of
 36 the following have pledged the county economic development income
 37 tax for any purpose permitted by IC 5-1-14 or any other statute:
 38 (1) The county.
 39 (2) A city or town in the county.
 40 (3) A commission, a board, a department, or an authority that is
 41 authorized by statute to pledge the county economic development
 42 income tax.

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1 (e) The department of local government finance shall provide each
2 county auditor with the fractional amount of the certified distribution
3 that the county and each city or town in the county is entitled to receive
4 under this section.

5 (f) Money received by a county, city, or town under this section
6 shall be deposited in the unit's economic development income tax fund.

7 (g) Except as provided in subsection (b)(2)(B), in determining the
8 fractional amount of the certified distribution the county and its cities
9 and towns are entitled to receive under subsection (b) during a calendar
10 year, the department of local government finance shall consider only
11 property taxes imposed on tangible property subject to assessment in
12 that county.

13 (h) In a county having a consolidated city, only the consolidated city
14 is entitled to the certified distribution, subject to the requirements of
15 sections 15, 25, and 26 of this chapter.

16 (i) **For any month in which distributions under subsection (b)
17 are calculated, a county, city, or town must receive an amount of
18 the certified distribution that is greater than or equal to the
19 amount determined in STEP SEVEN of the following STEPS:**

20 **STEP ONE: Determine the certified distribution to the county
21 of county economic development income tax revenue under
22 section 11 of this chapter for the immediately preceding
23 calendar year.**

24 **STEP TWO: Determine the certified distribution to the
25 county of county economic development income tax revenue
26 under section 11 of this chapter for the current calendar year.**

27 **STEP THREE: If the STEP ONE result is zero (0), the result
28 of this STEP is one (1). If the STEP ONE result is not zero (0),
29 divide the STEP TWO result by the STEP ONE result.**

30 **STEP FOUR: Determine the lesser of the STEP THREE
31 result and one (1).**

32 **STEP FIVE: Determine the amount of the certified
33 distribution allocated to the county, city, or town for the same
34 month in the immediately preceding year.**

35 **STEP SIX: Multiply the STEP FOUR result by the STEP
36 FIVE result.**

37 **STEP SEVEN: Multiply the STEP SIX result by ninety-eight
38 hundredths (0.98).**

39 (j) **If a county, city, or town is allocated a part of a county's
40 certified distribution by subsection (i), then the formula used in
41 subsection (b) or (c) to determine all other county, city, or town
42 shares of the certified distribution shall be changed by reducing the**

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1 amount of the certified distribution to be distributed under
2 subsections (b) and (c) by the amount allocated under subsection
3 (i).
4 SECTION 6. [EFFECTIVE JANUARY 1, 2006] IC 6-3.5-1.1-12,
5 IC 6-3.5-1.1-13, and IC 6-3.5-1.1-15, all as amended by this act,
6 apply to distributions of county adjusted gross income tax revenue
7 that are made after December 31, 2005. IC 6-3.5-6-18, as amended
8 by this act, applies to distributions of county option income tax
9 revenue that are made after December 31, 2005. IC 6-3.5-7-12, as
10 amended by this act, applies to distributions of county economic
11 development income tax revenue that are made after December 31,
12 2005.

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