ENGROSSED
SENATE BILL No. 208

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DIGEST OF SB 208 (Updated February 26, 2008 7:37 pm - DI 113)

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Citations Affected: IC 6-1.1.

Synopsis: Tax payments. Allows a county after June 30, 2009, to authorize county taxpayers to pay property taxes by automatic deduction from a checking account. Provides that after June 30, 2009, a county council may authorize the payment of property taxes by a monthly installment plan (in addition to the option of authorizing payments by automatic deductions from a checking account). Specifies that in the case of a taxpayer that pays property taxes by automatic deductions, the payment is deducted from the taxpayer's checking account on a date chosen by the taxpayer. Specifies that if a taxpayer makes automatic monthly deductions or monthly installments of property taxes in the amount determined by the county treasurer, the taxpayer's property tax payments shall not be considered delinquent and the taxpayer is not subject to penalties.

Effective: July 1, 2008.

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Tallian, Kenley, Lanane, Rogers

(HOUSE SPONSORS — HARRIS E, CANDELARIA REARDON, BUCK)

ES 208—LS 6593/DI 52+

ENGROSSED
SENATE BILL No. 208

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

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

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 1      SECTION 1. IC 6-1.1-22-9.7 IS ADDED TO THE INDIANA
 2   CODE AS A NEW SECTION TO READ AS FOLLOWS
 3   [EFFECTIVE JULY 1, 2008]: Sec. 9.7. (a) As used in this section,
 4   "current year" refers to the calendar year in which property taxes
 5   are first due and payable and are subject to payment under this
 6   section:
 7          (1) by automatic deduction from a checking account; or
 8          (2) under a monthly installment plan.
 9      (b) As used in this section, "monthly installment plan" means a
10   plan that:
11          (1) is adopted under this section;
12          (2) provides for the monthly payment of tax liability; and
13          (3) does not involve an automatic deduction from a checking
14          account.
15      (c) As used in this section, "preceding year" refers to the
16   calendar year that immediately precedes the current year.
17      (d) As used in this section, "tax liability" includes liability for
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1   **special assessments and refers to liability for property taxes after**
2   **the application of all allowed deductions and credits.**
3   **(e) After June 30, 2009, the county fiscal body (as defined in**
4   **IC 36-1-2-6) may at any time adopt an ordinance to allow all**
5   **county taxpayers to pay one (1) or more installments of property**
6   **taxes by any combination of the following:**
7   **(1) Automatic monthly deductions from a checking account.**
8   **(2) Payments under a monthly installment plan.**
9   **(f) An ordinance adopted under subsection (e):**
10   **(1) may apply to more than one (1) calendar year; and**
11   **(2) must include at least the following:**
12   **(A) Identification of the property tax installment or**
13   **installments for which payment:**
14   **(i) by automatic deduction from a checking account; or**
15   **(ii) under a monthly installment plan;**
16   **is authorized.**
17   **(B) Provisions for notice to county taxpayers of the option**
18   **to pay one (1) or more property tax installments:**
19   **(i) by automatic deduction from a checking account; or**
20   **(ii) under a monthly installment plan.**
21   **(C) Authority for the county treasurer to make available**
22   **to county taxpayers a form to be completed by a taxpayer**
23   **and submitted to the county treasurer to:**
24   **(i) direct the county treasurer to accept payment of the**
25   **taxpayer's property taxes by automatic deduction from**
26   **a checking account; and**
27   **(ii) authorize the institution that holds the taxpayer's**
28   **checking account to deduct monthly the appropriate**
29   **amount from the account and to pay that amount to the**
30   **county treasurer.**
31   **However, this clause applies only if the county fiscal body**
32   **has adopted an ordinance under this section to allow**
33   **taxpayers to pay property taxes by automatic deductions**
34   **from a checking account.**
35   **(D) Authority for the county treasurer to accept payment**
36   **of the taxpayer's property taxes under a monthly**
37   **installment plan. However, this clause applies only if the**
38   **county fiscal body has adopted an ordinance under this**
39   **section to allow taxpayers to pay property taxes by**
40   **monthly installment payments under a monthly**
41   **installment plan.**
42   **An ordinance adopted under subsection (e) may include a provision**

authorizing taxpayers to make monthly deductions or monthly
installment payments in an amount determined by the taxpayer
that is different from the amount otherwise determined by the
county treasurer under subsection (h), (i), (j), or (k).

(g) If an ordinance is adopted under subsection (e) to allow
taxpayers to pay property taxes by automatic deductions from a
checking account, the county treasurer shall provide to each
county taxpayer that submits to the county treasurer the form
referred to in subsection (f)(2)(C) a statement that includes at least
the following:

    (1) The amount to be deducted monthly from the taxpayer's
    checking account.

    (2) Identification of the day each month, as chosen by the
    taxpayer, when the deduction will be made.

    (3) A calculation of the amount to be deducted.

    (4) An explanation of the manner in which property taxes for
    the current year will be reconciled under subsection (n) and
    notice that any property tax payments for the current year
    made by the taxpayer by means other than automatic
    deduction from the taxpayer's checking account will be taken
    into account in the reconciliation.

    (5) An explanation of the penalties that apply if there are
    insufficient funds in the taxpayer's checking account to cover
    one (1) or more automatic deductions.

(h) This subsection applies only if the county treasurer
determines that at the time the calculation under subsection (g)(3)
is made the amount of tax liability for the current year has not
been determined. Subject to subsections (i) and (j), the county
treasurer shall do the following:

    (1) Determine the following:

        (A) For a parcel of real property, the most recently
        determined amount of tax liability that applied to the
        parcel for the preceding year.

        (B) For a personal property return, the most recently
        determined amount of tax liability that applied for the
        personal property return for the same location for the
        preceding year.

        (C) For distributable property, the most recently
        determined amount of tax liability that applied with
        respect to the statement filed by the taxpayer under
        IC 6-1.1-8-19 for the preceding year.

        (D) For a mobile home subject to IC 6-1.1-7, the most

recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly deduction from the taxpayer's checking account or the amount due under a monthly installment plan in the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

(i) the number of property tax installments for the current year identified in the ordinance under subsection (f)(2)(A); divided by

(ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

(i) the STEP THREE result; divided by

(ii) the number of monthly deductions or, in the case of payments under a monthly installment plan, the number of monthly installments.

(i) The county treasurer may determine the monthly deduction or the amount of the monthly installment due under a monthly installment plan in an amount different from the amount determined under subsection (h) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (h) to differ substantially from the tax liability likely to be determined for the current year.

(j) This subsection applies only if before an ordinance is adopted under subsection (e) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the monthly deduction from the taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (h) the tax liability to be indicated on the provisional statement.

(k) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has been determined. The amount of the monthly deduction from the

taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under subsection (f)(2)(A) divided by the number of monthly deductions.

(l) Tax liability paid under this section by automatic deduction from a checking account is not finally discharged and the person has not paid the tax until the taxpayer's checking account is charged for the payment.

(m) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable by automatic deduction from a checking account or by monthly installment payments under a monthly installment plan under this section.

(n) After the last monthly checking account deduction or last monthly installment payment under a monthly installment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

(1) The sum of:
(A) the taxpayer's actual tax liability for the current year; plus
(B) any penalty that applies for the current year.
(2) The total amount paid for the current year by automatic deductions, monthly installment payments under a monthly installment plan, and by means other than automatic deductions or monthly installment payments.
(3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:
(A) as a final reconciliation of the tax liability; and
(B) not later than thirty (30) days after the date of the reconciling statement.
(4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(o) The county auditor shall distribute tax collections under this section to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not

1 **prohibit a county treasurer from making an advance to a political**
2 **subdivision under IC 5-13-6-3 of a portion of the taxes collected.**
3   **(p) IC 6-1.1-15:**
4   **(1) does not apply to a statement provided under subsection**
5   **(g); and**
6   **(2) applies to a reconciling statement issued under subsection**
7   **(n).**
8   **(q) The following apply to a taxpayer that makes automatic**
9 **monthly deductions or monthly installments under this section:**
10   **(1) If a taxpayer makes automatic monthly deductions or**
11   **monthly installments of property taxes in the amount**
12   **determined by the county treasurer under subsection (h), (i),**
13   **(j), or (k), the taxpayer's property tax payments shall not be**
14   **considered delinquent for purposes of IC 6-1.1-37-10 and the**
15   **taxpayer is not subject to penalties under that section.**
16   **(2) If a taxpayer:**
17   **(A) makes automatic monthly deductions or monthly**
18   **installments of property taxes in an amount that is less**
19   **than the amount determined by the county treasurer under**
20   **subsection (h), (i), (j), or (k); and**
21   **(B) the total amount of property taxes paid by the taxpayer**
22   **under automatic monthly deductions, monthly**
23   **installments, or any other method by the May or**
24   **November due date is less than the amount determined by**
25   **the county treasurer under subsection (h), (i), (j), or (k)**
26   **that should have been paid by the taxpayer for the May or**
27   **November due date;**
28   **the penalty provisions of IC 6-1.1-37-10 apply to the**
29   **delinquent property taxes.**
30   **(r) IC 6-1.1-37-10 applies to any amounts due under a**
31 **reconciling statement issued under subsection (n) that are not paid**
32 **within thirty (30) days after the date of the reconciling statement,**
33 **as required under subsection (n)(3).**
34   **(s) For purposes of IC 6-1.1-24-1(a)(1):**
35   **(1) property taxes to be paid by automatic deduction or by**
36   **monthly installments under a monthly installment plan under**
37   **this section before June of the current year are considered to**
38   **be the taxpayer's spring installment of property taxes; and**
39   **(2) payment on a reconciling statement issued under**
40   **subsection (n) is considered to be due before the due date of**
41   **the first installment of property taxes payable in the year**
42   **immediately following the current year.**

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1   SECTION 2. IC 6-1.1-22.5-6, AS AMENDED BY P.L.67-2006,
2   SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3   JULY 1, 2008]: Sec. 6. (a) Except as provided in subsection (c), with
4   respect to property taxes payable under this article on assessments
5   determined for the 2003 assessment date or the assessment date in any
6   later year, the county treasurer may, except as provided by section 7 of
7   this chapter, use a provisional statement under this chapter if the
8   county auditor fails to deliver the abstract for that assessment date to
9   the county treasurer under IC 6-1.1-22-5 before March 16 of the year
10   following the assessment date.
11   (b) The county treasurer shall give notice of the provisional
12   statement, including disclosure of the method that is to be used in
13   determining the tax liability to be indicated on the provisional
14   statement, by publication one (1) time:
15   (1) in the form prescribed by the department of local government
16   finance; and
17   (2) in the manner described in IC 6-1.1-22-4(b).
18   The notice may be combined with the notice required under section 10
19   of this chapter.
20   (c) Subsection (a) does not apply if the county auditor fails to
21   deliver the abstract as provided in IC 6-1.1-22-5(b).
22   **(d) This subsection applies after June 30, 2009. Immediately**
23   **upon determining to use provisional statements under subsection**
24   **(a), the county treasurer shall give notice of the determination to**
25   **the county fiscal body (as defined in IC 36-1-2-6).**

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SENATE MOTION

Madam President: I move that Senator Kenley be added as second author of Senate Bill 208.

TALLIAN

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SENATE MOTION

Madam President: I move that Senators Lanane and Rogers be added as coauthors of Senate Bill 208.

TALLIAN

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 208, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 5 with "[EFFECTIVE JULY 1, 2008]".

Page 1, line 6, delete "section by automatic deduction from a" and insert "**section:**

(1) by automatic deduction from a checking account; or
(2) under a monthly installment plan.".

Page 1, delete line 7, begin a new paragraph and insert:

"**(b) As used in this section, "monthly installment plan" means a plan that:**

(1) is adopted under this section;
(2) provides for the monthly payment of tax liability; and
(3) does not involve an automatic deduction from a checking account.".

Page 1, line 8, delete "(b)" and insert "**(c)**".
Page 1, line 10, delete "(c)" and insert "**(d)**".
Page 1, line 13, delete "(d)" and insert "**(e)**".
Page 1, line 15, delete "automatic monthly" and insert "**any combination of the following:**

(1) Automatic monthly deductions from a checking account.
(2) Payments under a monthly installment plan.".

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Page 1, delete line 16.

Page 1, line 17, delete "(e)" and insert "**(f)**".

Page 1, line 17, delete "(d):" and insert "**(e):**".

Page 2, line 1, after "year;" insert "**and**".

Page 2, delete lines 2 through 6.

Page 2, line 7, delete "(3)" and insert "**(2)**".

Page 2, line 9, delete "payment by automatic deduction" and insert "**payment:**

> > **(i) by automatic deduction from a checking account; or**
> > **(ii) under a monthly installment plan;**
> > **is authorized.**".

Page 2, delete line 10.

Page 2, line 12, delete "installments by" and insert "**installments:**

> > **(i) by automatic deduction from a checking account; or**
> > **(ii) under a monthly installment plan.**".

Page 2, delete line 13.

Page 2, between lines 23 and 24, begin a new line double block indented and insert:

> > "**(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes under a monthly installment plan.**".

Page 2, line 24, delete "(f)" and insert "**(g)**".

Page 2, line 24, delete "(d)" and insert "**(e)**".

Page 2, line 26, delete "(e)(3)(C)" and insert "**(f)(2)(C)**".

Page 2, line 30, after "month" insert "**, as chosen by the taxpayer,**".

Page 2, line 34, delete "(m)" and insert "**(n)**".

Page 2, line 42, delete "(g)" and insert "**(h)**".

Page 3, line 1, delete "(f)(3)" and insert "**(g)(3)**".

Page 3, line 3, delete "(h) and (i)" and insert "**(i) and (j)**".

Page 3, line 21, after "account" insert "**or the amount due under a monthly installment plan**".

Page 3, line 28, delete "(e)(3)(A);" and insert "**(f)(2)(A);**".

Page 3, line 35, after "deductions" delete "." and insert "**or, in the case of payments under a monthly installment plan, the number of monthly installments.**".

Page 3, line 36, delete "(h)" and insert "**(i)**".

Page 3, line 36, after "deduction" insert "**or the amount of the monthly installment due under a monthly installment plan**".

Page 3, line 38, delete "(g)" and insert "**(h)**".

Page 3, line 40, delete "(g)" and insert "**(h)**".

Page 3, line 41, after "year." insert "**Notwithstanding this subsection or subsections (h), (j), and (k), a county fiscal body that**"

adopts an ordinance under subsection (e) to allow taxpayers to pay property taxes by automatic monthly deductions from a checking account may include in the ordinance a provision authorizing a taxpayer to determine the amount of a monthly deduction that is different from the amount otherwise determined under this subsection or subsection (h), (j), or (k).".

Page 3, line 42, delete "(i)" and insert "**(j)**".

Page 4, line 1, delete "(d)" and insert "**(e)**".

Page 4, line 4, after "account" delete "," and insert "**or the amount of the taxpayer's monthly installment payment under a monthly installment plan,**".

Page 4, line 6, delete "(g)" and insert "**(h)**".

Page 4, line 8, delete "(j)" and insert "**(k)**".

Page 4, line 9, delete "(f)(3)" and insert "**(g)(3)**".

Page 4, line 12, after "account" insert "**or the amount of the taxpayer's monthly installment payment under a monthly installment plan**".

Page 4, line 14, delete "(e)(3)(A)" and insert "**(f)(2)(A)**".

Page 4, line 16, delete "(k)" and insert "**(l)**".

Page 4, line 20, delete "(l)" and insert "**(m)**".

Page 4, line 23, delete "(m)" and insert "**(n)**".

Page 4, line 23, after "deduction" insert "**or last monthly installment payment under a monthly installment plan**".

Page 4, line 35, delete "deductions and" and insert "**deductions, monthly installment payments under a monthly installment plan, and**".

Page 4, line 35, delete "deductions." and insert "**deductions or monthly installment payments.**".

Page 5, line 1, after "that" delete ":" and insert "**the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.**".

Page 5, delete lines 2 through 16, begin a new paragraph and insert:

"**(o) The county auditor shall distribute tax collections under this section to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.**".

Page 5, line 19, delete "(f);" and insert "**(g);**".

Page 5, line 21, delete "(m)." and insert "**(n).**".

Page 5, line 23, delete "(m)" and insert "**(n)**".

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Page 5, line 26, after "deduction" insert "**or by monthly installments under a monthly installment plan**".

Page 5, line 30, delete "(m)" and insert "**(n)**".

Page 8, line 35, after "deduction" insert "**or by monthly installments under a monthly installment plan**".

Page 8, line 39, delete "IC 6-1.1-22-9.7(d)" and insert "**IC 6-1.1-22-9.7(e)**".

Page 8, line 40, after "deduction" insert "**or monthly installment**".

Page 9, line 2, after "deductions" insert "**or by monthly installments under a monthly installment plan**".

Page 9, line 5, delete "deductions or" and insert "**deductions, by monthly installments, or**".

Page 9, line 5, after "automatic deductions" insert "**or monthly installment payments**".

Page 10, line 1, after "deduction" insert "**or by monthly installments under a monthly installment plan**".

Page 10, line 5, delete "IC 6-1.1-22-9.7(d)" and insert "**IC 6-1.1-22-9.7(e)**".

Page 10, line 6, after "deduction" insert "**or monthly installment payment**".

Page 10, line 11, after "deductions" insert "**or by monthly installments under a monthly installment plan**".

Page 10, line 13, after "deductions" insert "**, by monthly installments,**".

Page 10, line 14, after "deductions" insert "**or monthly installment payments**".

and when so amended that said bill do pass.

(Reference is to SB 208 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 208 be amended to read as follows:

Page 2, between lines 30 and 31, begin a new line double block indented and insert:

"**However, this clause applies only if the county fiscal body**

has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic deductions from a checking account.".

Page 2, line 33, after "plan." insert "**However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by monthly installment payments under a monthly installment plan.**".

Page 2, between lines 33 and 34, begin a new line blocked left and insert:

"**An ordinance adopted under subsection (e) may include a provision authorizing taxpayers to make monthly deductions or monthly installment payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (h), (i), (j), or (k).**".

Page 2, line 34, after "(e)" delete "," and insert "**to allow taxpayers to pay property taxes by automatic deductions from a checking account,**".

Page 3, line 7, delete "under IC 6-1.1-37-10.3".

Page 4, line 13, delete "Notwithstanding this".

Page 4, delete lines 14 through 20.

Page 5, line 2, delete "IC 6-1.1-37-10.3 and IC 6-1.1-37-10.4" and insert "**IC 6-1.1-37-10 as specified in this section**".

Page 5, line 3, after "account" insert "**or by monthly installment payments under a monthly installment plan**".

Page 5, line 15, delete "under" and insert "**.**".

Page 5, delete line 16.

Page 5, line 22, delete "that the excess" and insert "**the deficiency**".

Page 5, between lines 41 and 42, begin a new paragraph and insert:

"**(q) The following apply to a taxpayer that makes automatic monthly deductions or monthly installments under this section:**

(1) If a taxpayer makes automatic monthly deductions or monthly installments of property taxes in the amount determined by the county treasurer under subsection (h), (i), (j), or (k), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If a taxpayer:

(A) makes automatic monthly deductions or monthly installments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k); and

(B) the total amount of property taxes paid by the taxpayer

under automatic monthly deductions, monthly installments, or any other method by the May or November due date is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k) that should have been paid by the taxpayer for the May or November due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.".

Page 5, line 42, delete "(q)" and insert "**(r)**".

Page 5, line 42, after "to" insert "**any amounts due under**".

Page 6, line 1, delete "in the same manner that IC 6-1.1-37-10" and insert "**that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (n)(3).**".

Page 6, delete line 2.

Page 6, line 3, delete "(r)" and insert "**(s)**".

Page 6, delete lines 36 through 42.

Delete pages 7 through 11.

Renumber all SECTIONS consecutively.

(Reference is to SB 208 as printed January 17, 2008.)

TALLIAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Senate Bill 208, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SUMMERS, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 208 be amended to read as follows:

Page 2, line 3, delete "The" and insert "**After June 30, 2009, the**".

Page 7, line 22, after "(d)" insert "**This subsection applies after June 30, 2009.**".

(Reference is to ESB 208 as printed February 15, 2008.)

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