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FISCAL IMPACT STATEMENT

LS 6929

BILL NUMBER: SB 239

NOTE PREPARED: Feb 22, 2010

BILL AMENDED: Feb 22, 2010

SUBJECT: Property Tax Matters.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Welch

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Biennial Adjustments:* This bill requires trending adjustments to real property assessments every two years instead of annually.

Assessment Methodology: The bill requires an assessor who proposes to change elements of assessment methodology used in the assessment of real property before application of an annual adjustment to document the different assessment methodology and quantify the change in the assessed value of the parcel resulting from the different assessment methodology and the change in assessed value resulting from the annual adjustment.

Homestead Property Defined: This bill provides that for purposes of the standard deduction and other property tax laws, the term "homestead" includes a deck or patio; a gazebo; or another residential yard structure (other than a swimming pool); that is assessed as real property and that is attached to the dwelling.

School Fiscal Year Budgeting: The bill provides that fiscal year budgeting is optional for school corporations.

School Referenda: This bill requires the governing body of a school corporation that adopts a resolution to conduct a referendum for a tax levy to certify the resolution to both the Department of Local Government Finance (DLGF) and the county fiscal body of each county in which the school corporation is located. (Current law does not require the governing body to certify the resolution to the DLGF.)

Referenda: This bill provides that if a controlled project of a political subdivision is subject to a referendum vote, the county election board must submit the referendum language to the DLGF for review and approval.

It requires the DLGF to review the referendum language to ensure that the description of the controlled project is accurate and is not biased against either a vote in favor of the controlled project or a vote against the controlled project.

The bill also requires a political subdivision to give notice to the circuit court clerk of the applicability of the petition and remonstrance process or the referendum process. It specifies deadlines for certification of the question for a referendum tax levy.

Economic Improvement Districts: The bill reduces from two to one the number of property owners that must be on the board of an economic improvement district (EID) when there is only one property owner in the district. It eliminates language that specified that assessments in an EID are property taxes for the purposes of applying Section 164 of the Internal Revenue Code and other purposes. For purposes of providing substantiation of the deductibility of a special assessment for federal adjusted gross income tax purposes under Section 164 of the Internal Revenue Code, the bill requires the property tax statement that includes an assessment for an EID to segregate the part of the assessment that is allocable to interest, maintenance, and repair charges from the remainder of the assessment.

Exemptions: The bill provides that the statute passed in the 2009 special session that allowed certain entities to file or refile an application for a charitable property tax exemption for an assessment date occurring after March 1, 2000, and before March 1, 2010, applies only to entities that are owned, occupied, and used as nonprofit entities.

The bill also provides for a re-filing of a property tax exemption for 2008 and 2009, if the real property is owned by a taxpayer that filed for the property tax exemption after January 15, 2010, and before January 25, 2010, the real property was leased to the Bureau of Motor Vehicles Commission (BMVC) during 2008 and 2009, and the real property received an exemption from real property taxes for the 2006 or 2007 assessment date.

Cities and Towns: This bill permits money in a cumulative capital improvement (CCI) fund of a city or town to be used for any governmental purpose for which money is appropriated by the fiscal body of the city or town.

It allows a city or town to reclassify certain loans from one fund to another as a permanent transfer.

The bill also amends a city budget statute to conform to deadlines changed in 2009.

Population: This bill provides that annexations, governmental reorganizations, municipal mergers, town incorporations, municipal dissolutions, governmental name changes, or boundary alterations that would otherwise become effective under current law on January 2 of the year in which a federal decennial census is conducted shall instead become effective on January 1 of the year in which the federal decennial census is conducted. It provides that any action that was effective January 2, 2010, under current law is instead effective on January 1, 2010, without the adoption of an amended ordinance or reorganization plan or any additional action.

IBTR: The bill provides that upon request by a county assessor, an employee of the Indiana Board of Tax Review (IBTR) may assist taxpayers and local officials in their attempts to voluntarily resolve disputes in which: (1) a taxpayer has filed written notice to obtain a review by the county property tax assessment board of appeals (PTABOA) of an action by a township or county official; and (2) the county PTABOA has not

given written notice of its decision on the issues under review.

Effective Date: January 1, 2008 (retroactive); June 30, 2009 (retroactive); January 1, 2010 (retroactive); Upon passage; July 1, 2010; January 1, 2011.

Explanation of State Expenditures: *Referenda:* Under current law, controlled projects may be subject to local referendum. If a project is placed on the ballot, the county election board must approve the form of the public question. Under this provision, after the county election board approves the question, the board would forward it to the DLGF for review and approval. The DLGF would be able to perform this review with current resources.

IBTR: Under this provision, a county assessor may request that an employee of the IBTR assist in voluntary dispute resolution in a case where the PTABOA has not given notice of a decision on a taxpayer appeal. The IBTR would adopt rules to establish procedures under which assistance would be given. Any fiscal impact would depend on the extent to which the IBTR grants requests for assistance. The IBTR is funded from the General Fund and the Assessment Training Fund.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Assessment Methodology:* Under this provision, assessors would have to document any change in assessment methodology applied to a parcel. The documentation must specify the amount of the AV change that was attributable to the methodology change and the amount attributable to biennial adjustments. The county assessment software would have to be modified to compute and record AV changes in the manner required under this provision. There is currently no estimate for the amount of this expense.

Biennial Adjustments: Under current law, real property is fully reassessed every five years. The next general reassessment takes effect with taxes payable in 2013. Annual adjustments to real property values are applied each year in which a general reassessment does not take effect.

Under this bill, the first adjustment after the general reassessment would be effective for taxes payable in 2015. Adjustments would follow for taxes payable in all odd-numbered years without a general reassessment, rather than in every year without a general reassessment.

Local expenditures for “trending” would be reduced under this bill. The cost for many associated tasks, such as the gathering of sales data, would continue each year. However, the expenditure for tasks like the computation of market values could be reduced by as much as one half.

According to sample county data provided by the DLGF, counties may be paying an average of \$1.44 per parcel for “trending” services. Based on this average, for 3.5 million parcels, the total cost could amount to about \$5 M per year. Some counties contract this work, while others perform it in-house. Counties would save at least a part of the \$5 M cost estimate in years with no adjustments.

Homestead Property Defined: The additional homestead property defined under this provision would qualify for any locally funded homestead or residential credits available. The LOIT credits that are available as direct taxpayer credits and the CEDIT homestead and residential credits for mitigation of inventory shifts are generated by a specified income tax rate. The available credits would be redistributed at a lower credit rate to include the new homestead property. The traditional COIT homestead credits are paid as a specific credit

rate. The additional homestead property would cause an increased cost for these credits, which would reduce the amount of certified shares available for distribution to civil taxing units.

School Fiscal Year Budgeting: Under current law, school corporations must switch to a fiscal year budget beginning July 1, 2011. Under this provision, fiscal year budgeting would be optional.

School Referenda: Under current law, school corporations must provide notice to the county fiscal body after adopting a resolution to conduct a referendum to approve an additional property tax levy. This provision would also require the school corporation to provide notice to the DLGF.

Economic Improvement Districts: Under current law, an EID board must have at least three members and a majority of the members must own property in the EID. Under this provision, if there is only one property owner within the EID then the board members would include the property owner plus not more than two other members who do not own property in the EID.

Under current law, the assessment charged against each parcel is considered a property tax for purposes of federal tax deductions. Assessments are considered property tax liens. Property tax deductions apply to the assessment but the assessment is not subject to the property tax circuit breaker caps.

Under this provision, the assessment would be considered a special assessment. Property tax deductions would not apply and special assessments would become liens, second only to property taxes. This provision would also require the EID board to identify the portion of the special assessments that are attributable to interest, maintenance, and repair charges. The taxpayers in the EID could use this information to determine deductibility under federal tax law.

Cities and Towns - CCI Funds: Under current law, a city or town may have two Cumulative Capital Improvement (CCI) Funds, one that is funded with property tax levies and the other funded with cigarette tax distributions. This provision affects only the cigarette tax-funded CCI fund.

Currently, money in the fund may be used to pay for:

- 1) The purchase buildings, land, easements, or rights-of-way;
- 2) Construction or improvement of city owned property;
- 3) Technology systems;
- 4) Computer maintenance employees;
- 5) In-service technology training;
- 6) Retiring bonds issued for one of the above purposes; and
- 7) Internet application development.

This provision would also allow cities and towns to use money in the fund for any other governmental purpose.

In 2009, 436 municipalities had a CCI (cigarette tax) fund. The total budgeted year-end cash balance for 2009 was \$10.5 M in 296 units and zero for the rest.

Cities and Towns - Temporary Loans: Under current law, taxing units may make temporary loans from one fund to another. The loans must be repaid to the original fund by the end of the year. Under this provision, cities and towns would be permitted to, by ordinance, determine that the transfer is permanent with no repayment. This action could not be taken in a case where the loan was made from a special taxing district,

a debt service or lease rental fund, a cumulative fund, or a utility. Depending on local action, this provision would allow additional expenditures from some funds while reducing expenditures from others.

Explanation of Local Revenues: (Revised) *Biennial Adjustments:* Under this provision, beginning with the 2014 assessment date, assessment adjustments would be made every two years between reassessments, rather than each year between reassessments.

There would be two years in each five-year assessment cycle where property values would be unadjusted. In some cycles, the biennial adjustments would come in both the years immediately prior to, and immediately after, the general reassessment. In other cycles, there would be no adjustment in either the years immediately prior to, or after, the general reassessment.

In the years without reassessment or adjustment, tax rates would increase as levies increase. Tax shifts that may have occurred because of differing rates of change between assessments of different real property types or between real and personal property would be delayed. The basis for each taxpayer's circuit breaker amount would not change in these years meaning that the circuit breaker cap would not change. In areas where the circuit breaker has been triggered and property values are on the rise, this would result in additional savings for taxpayers and additional losses for taxing units.

In a year with a reassessment or adjustment, this provision would have no impact, as compared with tax liabilities and circuit breaker losses under current law. In years immediately after a year without a reassessment or adjustment, assessment changes would incorporate two years worth of growth and tax rates would remain fairly flat. Delayed tax shifts would be realized along with current year shifts. Each taxpayer's circuit breaker cap would reflect the two-year growth.

Homestead Property Defined: The DLGF's interpretation of a homestead is defined as a principal residence consisting of a dwelling and up to one acre of land. Some improvements located on the home site are not considered homestead property. These improvements include, but may not be limited to, decks, patios, gazebos, and swimming pools. Since these improvements do not qualify as homestead property, they are not subject to the standard or supplemental standard deductions, they do not qualify for homestead credits, and the circuit breaker cap for that part of the property is 3% instead of 1%.

Under this provision, beginning with taxes payable in 2011, decks, patios, gazebos, and other residential yard structures, but not swimming pools, would be considered part of the homestead qualifying property if they are attached to the dwelling. The standard and supplemental deductions would apply as would any local homestead credits and the 1% circuit breaker cap.

According to the DLGF, most counties already consider these "attached" improvements as part of the dwelling. Some counties, however, may not. This provision most likely affects only a small amount of property. Due to data constraints, however, the part of the non-qualifying homeowner property that would qualify as homestead property under this bill cannot be determined. While the actual fiscal impact should be considerably less, an illustration is presented of the estimated impact if all non-qualifying homeowner property were to become homestead-eligible.

Illustration including all non-qualifying homeowner property: Beginning with taxes payable in 2011, the additional standard and supplemental standard deductions are estimated at \$1.2 B. The total reduction in net taxes for homeowners, including tax shifts and circuit breakers, is estimated at \$20.0 M. The reduction in net AV would result in a higher tax rate and a net tax shift (after circuit breakers) of about \$10.9 M from

homeowners to other taxpayers. The cost of the circuit breaker cap to local taxing units and school corporations would rise by an estimated \$9.0 M. The higher tax rates would also cause TIF proceeds to increase by about \$1.1 M.

Exemptions: HEA 1001-2009(ss) granted additional time to file for a property tax exemption that applies to taxes payable from 2002 through 2010 for property owned and used for educational, literary, scientific, religious, or charitable purposes. The extension of time applied if the owner failed to file an application or if there was insufficient documentation attached to the application. Exemption applications could have been filed through August 31, 2009.

This bill would limit the additional filing opportunity to an entity that is owned, occupied, and used as a nonprofit entity.

The exemption applications that are allowed under current law will result in either unpaid taxes that were billed in prior years or in refunds of taxes paid by these entities. Refunds of prior property tax payments reduce current year tax revenues. Under the bill, an exemption application filed under the extension by a for-profit entity or for property occupied or used for profit, would be denied. This bill would limit the number of retroactive exemptions granted and the associated revenue loss.

Exemptions - Leased Property: This provision would allow an exemption for taxes payable in 2009 and in 2010 for an entity that:

- 1) Filed or refiled an exemption application between January 16, 2010, and January 24, 2010, inclusive, under the statute that allows exemptions for property leased to political subdivisions; and
- 2) Leased property to the BMVC during 2008 and 2009 which received an exemption for taxes payable in 2007 or 2008.

The total number of properties that could be affected is unknown. One property has been identified in Marion County. According to county records, the original Pay 2009 tax bill was \$29,036. In 2008, records show the net tax bill after partial exemption was \$4,279 with the same gross assessed value. Assuming that a similar portion of the property would be exempt under this provision, the taxes that would be cancelled are estimated at about \$25,000 each in 2009 and 2010 plus accrued interest and penalties, if any.

The entity would receive a refund for any taxes, interest, or penalties already paid. Refunds reduce current year property tax distributions. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the refunded amounts and of amounts due in 2010.

Population: Under current law, annexations, disannexations, reorganizations, boundary changes, and municipal mergers, incorporations, and dissolutions cannot take effect in the year preceding a decennial census. Instead, they become effective on January 2nd of the year in which the census occurs. Under this provision, these changes would instead take effect on January 1st of the census year. As a result, the population counts for the new decennial census would immediately reflect the changes. State and federal population-based distributions would be affected when the population changes. This provision would also change the effective date of an action that was effective January 2, 2010, to January 1, 2010.

State Agencies Affected: DLGF; IBTR.

Local Agencies Affected: County assessors; Township assessors; Property tax boards of appeals; civil taxing units and school corporations; Economic Improvement Districts.

Information Sources: Tim Jorzak, DLGF, 317-232-3777; LSA parcel-level assessment and tax database.

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