LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6929
BILL NUMBER: SB 239

NOTE PREPARED: Feb 25, 2010
BILL AMENDED: Feb 24, 2010

SUBJECT: State and Local Taxation and Administration.

FIRST AUTHOR: Sen. Hershman
FIRST SPONSOR: Rep. Welch

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Agricultural Property:* This bill prohibits an administrative rule requiring a minimum assessment valuation (floor) for agricultural personal property. The bill also changes the circuit breaker credit for agricultural property from 3% to 2% of assessed value.

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 includes certain residential yard structures (other than a swimming pool) in the definition of "homestead".

Certified Technology Park: The bill provides a deduction for personal property in a certified technology park.

School Fiscal Year Budgeting: The bill replaces the requirement that school corporations budget on a school-year basis with a provision permitting a school corporation to elect whether to budget on a calendar-year or school-year basis.

School Referenda: This bill requires resolutions proposing a school tax referendum to be certified to the Department of Local Government Finance (DLGF) and the county fiscal body.

Referenda: This bill requires a county election board to submit the proposed language to be placed on the ballot in a controlled project referendum to the DLGF for review and approval.

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.

Sales Tax Payments by Municipal Golf Courses: This bill exempts sales to a municipal golf course from sales taxes.

EDGE Credits: The bill permits businesses with less than 35 employees to receive an economic development for a growing economy tax credit.

Public Safety LOIT: This bill specifies that local option public safety income taxes may not be used to reduce or replace the amount expended for public safety from other sources.

Marion County Solid Waste: The bill exempts certain final disposal solid waste disposal facilities from the application of the state solid waste management plan law.

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. The bill specifies that assessments in an economic improvement district are to be treated as special assessments. It also requires district assessments for interest, maintenance, and repair charges to be separately stated.

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 permits certain taxpayers to file a late property tax exemption application. The bill also provides that Masonic lodges and Scottish Rite Valleys are exempt from property taxation.

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. 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.

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 to voluntarily resolve property tax disputes.

Legislative Body Members: This bill permits certain third-class cities to reduce the number of members on the legislative body from seven to four.

Public Works Bids: The bill extends the time that may elapse between the date a notice for a public works bid is published and the date the bids must be received for certain local projects.

Notices Sent to Property Owners: This bill provides that notices for certain weed removal fees and sewage fees be sent by certified mail, return receipt requested.

Effective Date: (Amended) Upon passage; July 1, 2007 (retroactive); January 1, 2008 (retroactive); March 1, 2008 (retroactive); June 30, 2009 (retroactive); January 1, 2010 (retroactive); July 1, 2010.

Explanation of State Expenditures: (Revised) *Certified Technology Park:* This bill authorizes the DLGF to prescribe a form for the deduction schedule. This could add administrative duties to the DLGF. However, the bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

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.

(Revised) *EDGE Credits:* The bill could potentially broaden eligibility and expand the applicant pool for EDGE credits relating to job retention projects. This may increase the number of applications for EDGE credits and the number of EDGE credits awarded annually, creating additional administrative demands on the Indiana Economic Development Corporation (IEDC). Based on recent quarterly employer reports for unemployment compensation taxes, there could potentially be approximately 100,000 firms in the state that are employing 1 to 34 employees.

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: (Revised) *Sales Tax Payments by Municipal Golf Courses:* The bill exempts from sales tax transactions involving tangible personal property acquired for use in the operation of a municipal golf course. In all likelihood sales tax on such transactions has historically not been paid. Consequently, any fiscal impact as a result of this provision is expected to be minimal.

(Revised) *EDGE Credits:* The bill eliminates the requirement that businesses must employ at least 35 employees to be eligible for EDGE credits for job retention projects beginning in tax year 2010. This change could increase the number of EDGE credits awarded for projects that lead to job retention, which could potentially increase the revenue loss from EDGE credits. However, the magnitude of this loss is indeterminable.

Background Information - Under current statute, businesses that (1) create new investment and jobs in Indiana or (2) undertake projects to retain existing jobs in Indiana are eligible for EDGE credits. As it applies to investment that creates new jobs, the EDGE Program is designed to provide a revenue-neutral incentive for businesses to create new investment and jobs in Indiana. Such businesses receive credits equal to the individual income taxes withheld for employees filling the newly created positions. Since revenue from these employees would not have been collected in the absence of the new development, the state does not incur a net loss by redistributing the incremental income tax revenue as tax credits to businesses. For job retention projects, no new revenue would be realized since no new jobs would be created. As a result, EDGE credits for job retention are paid from existing revenues, resulting in a net loss to the state equal to the amount of EDGE credits granted to businesses for job retention. However, if a business were to select a more profitable alternative project site and move out of Indiana, there could be an even greater loss of revenue from the reduction in individual (employee's) and corporate taxes.

EDGE credits for job retention were awarded for the first time in 2003. The EDGE credit amounts (for job retention) awarded in FY 2004 totaled approximately $3 M and in FY 2005 totaled approximately $2.8 M. There was a $5 M cap for the aggregate amount of EDGE credit awards during both fiscal years. In FY 2006, the aggregate amount of EDGE credits that could be awarded for a state fiscal year was increased to $10 M. EDGE credits for retention totaled $1 M in FY 2006 and $370,000 in FY 2007. About $3.8 M has been awarded for FY 2010.

EDGE credits are awarded for a duration of up to 10 years during which the credit amounts may be used. EDGE credits may be taken against a taxpayer's AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. The duration of the credit may not exceed 10 taxable years. Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund.

Explanation of Local Expenditures: *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.

(Revised) *Legislative Body Members-* If an ordinance was passed to reduce the number of legislative body members, there would be a savings to the city from the expenses incurred by the eliminated member(s).

(Revised) *Notices Sent to Property Owners-* Counties, municipalities, and sewer districts would have to send additional notices by certified mail to the owner of record, or to at least one of the owners if there are multiple owners. The cost of the mailing may be billed to the property owner.

Explanation of Local Revenues: (Revised) *Agricultural Property - 30% Floor:* Under current regulations, the total value of a taxpayer's depreciable property located in the same tax taxing district must be at least 30% of the total cost of the property. This is known as the 30% valuation floor. This bill would remove the floor for agricultural personal property beginning with taxes payable in 2011.

The removal of the floor would reduce the assessed value of personal property, which would shift part of the tax burden from personal property taxpayers to all property taxpayers through an increase in the tax rate. An increase in the tax rate makes it likely that the property taxes of more taxpayers would be above the applicable tax cap. This could potentially increase the amount of circuit breaker credits that the taxing unit would have to fund. As a result, total local revenues would probably decrease. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

The amount of AV loss, tax shift, and circuit breaker impact from this provision are currently indeterminable. For taxes payable in 2007, agricultural personal property accounted for $1.1 B in AV and $21.3 M in net property taxes. The statewide impact (shift and circuit breaker increase) would most likely be something less than $10 M.

(Revised) *Agricultural Property - Circuit Breaker:* Under current law, property taxes on agricultural property, other than homesteads and farmland, are capped at 3% of gross assessed value. Beginning with taxes payable in 2011, this bill would reduce the cap from 3% to 2%. Statewide, circuit breaker losses would grow by an estimated $1.4 M in CY 2011.

(Revised) *Certified Technology Park:* Under this proposal, a county fiscal body may adopt an ordinance exempting an owner of personal property that is located within a certified technology park and is used primarily to conduct high technology activity, from paying property taxes on the property for two to ten years as specified in the ordinance. The ordinance must be adopted before January 1 of the first assessment year for which the taxpayer may claim the exemption. The property must be assessed for the first time between 2011 and 2015, inclusive. Qualified personal property installed after March 1, 2015, is not eligible for this exemption. The exemption excludes any assessed value (AV) used for tax increment financing or for routine administrative purposes.

To obtain the deduction each year, the taxpayer must file a certified deduction schedule with the county assessor. The county assessor may approve, deny, or alter the amount of the deduction. The taxpayer may appeal the assessor's decision.

This proposal could result in an increase in investment (and AV) within certified technology parks. The potential increase is indeterminable at this time. The impact on applicable taxing units would depend on whether the increase would occur because of this bill. If the increase in investment occurs primarily because of the bill, then the benefits of the increase in AV after the exemption has expired (increased revenue, a possible decrease in tax rates and circuit breaker credits) has to be weighed against the cost of the exemption in the short term (over the two- to ten-year period).

On the other hand, if the increase would occur in spite of the bill, then the taxing unit would have to forgo the addition to its tax base (and the associated increase in revenue and a possible reduction in tax rates and circuit breaker credits) until the exemption period is over. The impact would depend on the value of the personal property involved and the length of the exemption.

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.

(Revised) *Exemption - American Legion:* Under this provision, the American Legion may file an exemption application by June 30, 2010, effective for taxes payable in 2008 and 2009 under the following conditions:

(1) The Legion holds title to land and improvements and personal property in Marion County that were assessed for the 2007 and 2008 assessment dates at more than five times the 2005 assessment;
(2) The Legion failed to timely file exemption applications for the 2007 and 2008 assessment dates;
(3) The Legion timely filed an exemption application for the 2009 assessment date, which was granted; and
(4) The property would have been eligible for exemption for the 2007 and 2008 assessment dates if the Legion had owned the property on the assessment dates and if the Legion had timely filed an exemption application.

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 tax bills totaled \$126,521. With penalties, the total due is \$137,300.

Under this bill, the exemption would apply retroactively and the tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the tax due.

(Revised) *Exemption - Masonic Temple and Scottish Rite:* Current law exempts certain specified organizations (e.g., the Young Men's Christian Association; Boy Scouts of America; Girl Scouts of America; certain veteran organizations) from paying property taxes. To obtain the exemption, the eligible organization must file an application annually with the county assessor. For taxes payable in 2011 and after, this bill extends the exemption to Masonic Lodges and Scottish Rite Valleys. The use of the property by an affiliated organization would not disqualify a Masonic Lodge or Scottish Rite Valley from receiving the exemption.

The amount of AV to be exempted is indeterminable at this time. Some of these organizations are already partially exempted from paying property taxes; this bill would exempt the remaining portion of the AV. Exemptions lead to a reduction in the tax base that would result in a tax shift to all other property in the form of an increased tax rate. The amount of the tax shift and the size of the increase in the tax rate is indeterminable at this time.

The combination of a reduction in assessed values and an increase in the tax rate makes it likely that the property taxes of more taxpayers would be above the applicable tax cap. This could potentially increase the amount of circuit breaker credits that the taxing unit would have to fund. As a result, total local revenues would probably decrease. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

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; IEDC; SBA; DOR.

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

Information Sources: Tim Jorczak, DLGF, 317-232-3777; Eric Shields, IEDC, 234-3997; LSA parcel-level assessment and tax database; Marion County Auditor tax records.

Fiscal Analyst: Bob Sigalow, 317-232-9859; David Lusan, 317-232-9592; Jessica Harmon, 317-232-9854; Jim Landers, 317-232-9869; Chris Baker, 317-232-9851; Bernadette Bartlett, 317-232-9586.