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FISCAL IMPACT STATEMENT

LS 6030 **NOTE PREPARED:** Apr 9, 2013
BILL NUMBER: SB 4 **BILL AMENDED:** Apr 9, 2013

SUBJECT: Historic Preservation.

FIRST AUTHOR: Sen. Arnold **BILL STATUS:** CR Adopted - 2nd House
FIRST SPONSOR: Rep. Dermody

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Removing Designation as Historic District-* The bill provides the exclusive method for removing the designation of a historic district. It provides that a petition requesting the removal of a designation of a historic district may be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single- site historic district; or (2) in the case of a historic district with two or more parcels, at least 60% of the owners of the real property of the historic district. The bill requires the legislative body to submit the petition to the unit's historic preservation commission (HPC).

HPC Public Hearing/Decision- The bill requires the unit's HPC to conduct a public hearing on the petition not later than 60 days after receiving the petition. It requires the HPC to make findings and a recommendation to grant or deny the petition not later than ten days after the public hearing.

Legislative Body Approval- The bill also requires the legislative body of the unit to grant or deny the petition not later than 45 days after receiving the petition from the unit's HPC. The bill requires the legislative body of the unit, before granting or denying a petition requesting the removal of a historic district designation, to take public comment and receive evidence in support of or in opposition to the petition.

It provides that the legislative body may adopt an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) by a two-thirds vote, if the recommendation of the commission is to deny the petition.

No Legislative Body Action- The bill also provides that if the legislative body does not act upon the petition within the 45-day period, the petition is considered granted or denied in accordance with the recommendation

of the HPC.

Recording of Ordinance- The bill provides that if a petition is granted, the legislative body must adopt an ordinance to remove the designation of the historic district and record the ordinance with the county recorder. The bill provides that the designation of the historic district is considered removed on the date the ordinance is recorded with the county recorder.

Historic Rehabilitation Tax Credit (HRTC)- The bill transfers administration of the HRTC from the Division of Historic Preservation and Archeology of the Department of Natural Resources to the Office of Community and Rural Affairs. It provides that the credit applies to the preservation or rehabilitation of historic properties that have been vacant for at least one year. The bill establishes four new methodologies for determining the amount of the tax credit. It provides that a property's adjusted basis is not reduced by the amount of the credit if a person is entitled to a federal low income housing tax credit. The bill changes numerous spending floors and caps relating to the tax credit. It increases the annual statewide cap on the tax credit to $1.0 M. It requires the OCRA to apply the increase to the backlog of approved credits. The bill specifies that the OCRA may adopt emergency rules. It voids a rule providing that the maximum amount of tax credits for a particular project is $100,000. The bill also prohibits the OCRA from reallocating available tax credits from year to year

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Historic Rehabilitation Tax Credit (HRTC)- Department of State Revenue (DOR):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the modifications to the HRTC. The DOR's current level of resources should be sufficient to implement this change.

Division of Historic Preservation and Archaeology (DHPA): The DHPA will transfer the administration of the HRTC to the OCRA. They are also required to transfer all property, records and rules regarding this credit to the OCRA. The bill requires the DHPA to provide any assistance necessary for the OCRA to administer this credit. However, this would unlikely result in a reduction of DHPA's administrative expenses, because they would still administer the Residential Historic Rehabilitation Credit. Both credits are designed to encourage the rehabilitation of historic buildings and draw from the same pool of potential properties.

Office of Community and Rural Affairs (OCRA): The OCRA will incur additional administrative expense to develop forms, process applications, maintain property records and certify HRTC. Additionally, the changes in the bill will increase the complexity of the applications, review, and certification processes. The bill's requirements represent an additional workload and/or expenditure on the agency outside of the agency's routine administrative functions. However, the OCRA's existing staffing and resource levels may be sufficient for full implementation.

Explanation of State Revenues: (Revised) *Historic Rehabilitation Tax Credit (HRTC): Summary* - This bill makes several changes to the HRTC. Some changes would allow the credit to be claimed more frequently, while other changes place new restrictions on the credit's use. The bill states the changes to the HRTC are only effective for the credits awarded after June 30, 2013. All credits awarded before June 30, 2013, are subject to the terms and conditions of the statute prior to this bill. The number of taxpayer credit claims and the number of projects submitted have decreased in recent years. It is unknown if this bill would reverse the trend. Therefore, the net impact is indeterminable. However, the bill caps the total credits at $1.0 M per fiscal year beginning in FY 2014.

(Revised) *Additional Information* - The bill makes the following modifications to the HRTC.

Existing	**Proposed**
The minimum amount of qualified expenditures is $10,000.	Increases minimum amount of qualified expenditures to $25,000
There is no vacancy requirement.	The historic property must have been vacant for at least 1 year.
The credit equals 20% of the qualified expenditures as approved by the DHPA.	The credit is computed using one of the 4 methods below: 1) If the taxpayer's total qualifying expenditures is less than $2 M, the credit equals 40% of either: a) the qualified expenditures. b) the product of 1.3 and the amount of qualified expenditures if the property is located in a difficult development area or a qualified census tract. 2) If the rehabilitated property is a school, hospital, or an Indiana Main Street Program grant recipient, the credit equals 40% of either: a) the qualified expenditures. b) the product of 1.3 and the amount of qualified expenditures if the property is located in a difficult development area or a qualified census tract. 3) If the rehabilitated property obtains a qualifying score based on the system described within the bill, the credit equals 40% of either: a) the qualified expenditures. b) the product of 1.3 and the amount of qualified expenditures if the property is located in a difficult development area or a qualified census tract. 3) For all other projects, the credit equals 20% of either: a) the qualified expenditures. b) the product of 1.3 and the amount of qualified expenditures if the property is located in a difficult development area or a qualified census tract.
The credits are recaptured from the taxpayer if they transfer the property less than 5 years after the work is completed regardless of its intended usage.	The taxpayer may retain the credit if the property is transferred as a condominium.
It has no scoring system.	It provides a scoring system to evaluate the worthiness of the project. The scoring system uses median household income rank, the rurality index for the county, and the building's rating from the DHPA's most recent interim report.

Existing	Proposed
The maximum statewide credit amount of HRTC for all taxpayers is limited to $450,000 per fiscal year.	The maximum statewide HRTC limit increases to $1.0 M per fiscal year beginning in FY 2014.
An administrative rule limits the amount of credit for any one project to $100,000.	The amount of credit awarded for one project may not exceed 20% of the annual credit limit ($200,000).

All the changes within the bill would only apply to the projects and credits awarded after June 30, 2013.

In addition, $550,000 of the annual credit limit must be dedicated to accelerate the backlog of HRTC offered prior to FY 2014. According to a report submitted by the DHPA, the queue of taxpayers waiting to claim an HRTC extends to FY 2023.

The National Register online database lists 1,479 individual properties and 298 historic districts. The breakdown of commercial and owner-occupied properties is unknown, as is the number of buildings in each historic district. Increasing the credit amounts, raising the annual credit limit, and allowing certain property transfers may increase the number of project applications. However, the bill's inclusion of a vacancy requirement, increasing the minimum qualifying expenditure, and the complexity of the credit computation will likely decrease the number of applications. It is uncertain how all the changes will impact the number of taxpayers applying for the HRTC.

Background Information- The HRTC was established to encourage the rehabilitation of historic properties. The historic property must be actively used in a trade, business, held for rental, or other use in the ordinary course of the taxpayer's business. The credit may be applied against Individual or Corporate Adjusted Gross Income (AGI) Tax liability. The tax credit is equal to 20% of qualified expenditures as approved by the DHPA, and qualified expenditures must exceed $10,000. The credit is not refundable, but unused credits may be carried forward for up to 15 years. Unused credits may not be carried back. The maximum statewide credit may not exceed $450,000 for all taxpayers for a fiscal year. [The Residential Historic Rehabilitation Tax Credit is the HRTC's complement for the rehabilitation of owner-occupied residential properties.]

From FY 2000 to FY 2013, the Department of Natural Resources (DNR) certified about $7.4 M in credits. In addition, the DNR has already certified tax credits up to the annual aggregate credit limit ($450,000) for each year through FY 2023. This translates into approximately $4.2 M in additional tax credits to be claimed against future tax liabilities.

In 2008, 48 taxpayers claimed $153,611; 39 taxpayers claimed $99,285 in 2009; and in 2010, 30 taxpayers claimed $93,533 in HRTC on Indiana individual income tax returns. HRTC's were not claimed by corporate taxpayers in 2008, 2009, and 2010. Revenue from the AGI Tax on individuals and corporations is placed in the state General Fund.

Explanation of Local Expenditures: *HPC Public Hearing/Decision*- HPC's would be required to conduct a public hearing. The local unit where the hearing is conducted would require additional expenditures for an advertisement of the hearing in local newspapers and by certified mail to owners of property abutting the building, structure, or site that is under the petition for removal.

Generally, members of a historic preservation commission serve without compensation except for reasonable expenses incurred while serving.

Legislative Body Approval- Unit legislative body expenditures may increase if additional meeting time is necessary to conduct public hearings on the approval of an ordinance to remove a historical district designation. Additional expenditures could include printing of notices of a hearing and members receiving additional per diem.

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue, Division of Historic Preservation and Archaeology, Department of Natural Resources, Office of Community and Rural Affairs.

Local Agencies Affected: Local units' legislative bodies, historic preservation commissions, county recorders.

Information Sources: LSA Income Tax Databases; David Duvall, DHPA, 232-1635.

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