

PROPOSED AMENDMENT

HB 1246 # 3

DIGEST

Uses of incremental revenue. Provides that incremental revenues may be used by a redevelopment commission to pay operating costs, in whole or in part, of: (1) a unit's law enforcement agency; (2) a unit's fire department, including a fire protection district established under IC 36-8-11 or a fire protection territory established under IC 36-8-19; and (3) emergency medical services operated or maintained by a unit; that serve the allocation area. Provides that incremental revenues shared by a redevelopment commission with a school corporation for an education or worker program may also be used by the school corporation to pay operating costs of the school corporation.

- 1 Page 5, between lines 28 and 29, begin a new paragraph and insert:
2 "SECTION 5. IC 36-7-14-39, AS AMENDED BY P.L.38-2021,
3 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2022]: Sec. 39. (a) As used in this section:
5 "Allocation area" means that part of a redevelopment project area
6 to which an allocation provision of a declaratory resolution adopted
7 under section 15 of this chapter refers for purposes of distribution and
8 allocation of property taxes.
9 "Base assessed value" means, subject to subsection (j), the
10 following:
11 (1) If an allocation provision is adopted after June 30, 1995, in a
12 declaratory resolution or an amendment to a declaratory
13 resolution establishing an economic development area:
14 (A) the net assessed value of all the property as finally
15 determined for the assessment date immediately preceding the
16 effective date of the allocation provision of the declaratory
17 resolution, as adjusted under subsection (h); plus
18 (B) to the extent that it is not included in clause (A), the net
19 assessed value of property that is assessed as residential
20 property under the rules of the department of local government
21 finance, within the allocation area, as finally determined for
22 the current assessment date.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for the current assessment date.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment

1 commission adopted before June 1, 1987, a resolution to include within
2 the definition of property taxes, taxes imposed under IC 6-1.1 on
3 depreciable personal property that has a useful life in excess of eight
4 (8) years, the commission may by resolution determine the percentage
5 of taxes imposed under IC 6-1.1 on all depreciable personal property
6 that will be included within the definition of property taxes. However,
7 the percentage included must not exceed twenty-five percent (25%) of
8 the taxes imposed under IC 6-1.1 on all depreciable personal property.

9 (b) A declaratory resolution adopted under section 15 of this chapter
10 on or before the allocation deadline determined under subsection (i)
11 may include a provision with respect to the allocation and distribution
12 of property taxes for the purposes and in the manner provided in this
13 section. A declaratory resolution previously adopted may include an
14 allocation provision by the amendment of that declaratory resolution on
15 or before the allocation deadline determined under subsection (i) in
16 accordance with the procedures required for its original adoption. A
17 declaratory resolution or amendment that establishes an allocation
18 provision must include a specific finding of fact, supported by
19 evidence, that the adoption of the allocation provision will result in
20 new property taxes in the area that would not have been generated but
21 for the adoption of the allocation provision. For an allocation area
22 established before July 1, 1995, the expiration date of any allocation
23 provisions for the allocation area is June 30, 2025, or the last date of
24 any obligations that are outstanding on July 1, 2015, whichever is later.
25 A declaratory resolution or an amendment that establishes an allocation
26 provision after June 30, 1995, must specify an expiration date for the
27 allocation provision. For an allocation area established before July 1,
28 2008, the expiration date may not be more than thirty (30) years after
29 the date on which the allocation provision is established. For an
30 allocation area established after June 30, 2008, the expiration date may
31 not be more than twenty-five (25) years after the date on which the first
32 obligation was incurred to pay principal and interest on bonds or lease
33 rentals on leases payable from tax increment revenues. However, with
34 respect to bonds or other obligations that were issued before July 1,
35 2008, if any of the bonds or other obligations that were scheduled when
36 issued to mature before the specified expiration date and that are
37 payable only from allocated tax proceeds with respect to the allocation
38 area remain outstanding as of the expiration date, the allocation
39 provision does not expire until all of the bonds or other obligations are
40 no longer outstanding. Notwithstanding any other law, in the case of an

allocation area that is established after June 30, 2019, and that is located in a redevelopment project area described in section 25.1(c)(3)(C) of this chapter, an economic development area described in section 25.1(c)(3)(C) of this chapter, or an urban renewal project area described in section 25.1(c)(3)(C) of this chapter, the expiration date of the allocation provision may not be more than thirty-five (35) years after the date on which the allocation provision is established. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in

- 1 that allocation area.
- 2 (C) Pay the principal of and interest on bonds payable from
- 3 allocated tax proceeds in that allocation area and from the
- 4 special tax levied under section 27 of this chapter.
- 5 (D) Pay the principal of and interest on bonds issued by the
- 6 unit to pay for local public improvements that are physically
- 7 located in or physically connected to that allocation area.
- 8 (E) Pay premiums on the redemption before maturity of bonds
- 9 payable solely or in part from allocated tax proceeds in that
- 10 allocation area.
- 11 (F) Make payments on leases payable from allocated tax
- 12 proceeds in that allocation area under section 25.2 of this
- 13 chapter.
- 14 (G) Reimburse the unit for expenditures made by it for local
- 15 public improvements (which include buildings, parking
- 16 facilities, and other items described in section 25.1(a) of this
- 17 chapter) that are physically located in or physically connected
- 18 to that allocation area.
- 19 (H) Reimburse the unit for rentals paid by it for a building or
- 20 parking facility that is physically located in or physically
- 21 connected to that allocation area under any lease entered into
- 22 under IC 36-1-10.
- 23 (I) For property taxes first due and payable before January 1,
- 24 2009, pay all or a part of a property tax replacement credit to
- 25 taxpayers in an allocation area as determined by the
- 26 redevelopment commission. This credit equals the amount
- 27 determined under the following STEPS for each taxpayer in a
- 28 taxing district (as defined in IC 6-1.1-1-20) that contains all or
- 29 part of the allocation area:
- 30 STEP ONE: Determine that part of the sum of the amounts
- 31 under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2),
- 32 IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and
- 33 IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to
- 34 the taxing district.
- 35 STEP TWO: Divide:
- 36 (i) that part of each county's eligible property tax
- 37 replacement amount (as defined in IC 6-1.1-21-2 (before its
- 38 repeal)) for that year as determined under IC 6-1.1-21-4
- 39 (before its repeal) that is attributable to the taxing district;
- 40 by

1 (ii) the STEP ONE sum.

2 STEP THREE: Multiply:

3 (i) the STEP TWO quotient; times

4 (ii) the total amount of the taxpayer's taxes (as defined in
5 IC 6-1.1-21-2 (before its repeal)) levied in the taxing district
6 that have been allocated during that year to an allocation
7 fund under this section.

8 If not all the taxpayers in an allocation area receive the credit
9 in full, each taxpayer in the allocation area is entitled to
10 receive the same proportion of the credit. A taxpayer may not
11 receive a credit under this section and a credit under section
12 39.5 of this chapter (before its repeal) in the same year.

13 (J) Pay expenses incurred by the redevelopment commission
14 for local public improvements that are in the allocation area or
15 serving the allocation area. Public improvements include
16 buildings, parking facilities, and other items described in
17 section 25.1(a) of this chapter.

18 (K) Reimburse public and private entities for expenses
19 incurred in training employees of industrial facilities that are
20 located:

21 (i) in the allocation area; and

22 (ii) on a parcel of real property that has been classified as
23 industrial property under the rules of the department of local
24 government finance.

25 However, the total amount of money spent for this purpose in
26 any year may not exceed the total amount of money in the
27 allocation fund that is attributable to property taxes paid by the
28 industrial facilities described in this clause. The
29 reimbursements under this clause must be made within three
30 (3) years after the date on which the investments that are the
31 basis for the increment financing are made.

32 (L) Pay the costs of carrying out an eligible efficiency project
33 (as defined in IC 36-9-41-1.5) within the unit that established
34 the redevelopment commission. However, property tax
35 proceeds may be used under this clause to pay the costs of
36 carrying out an eligible efficiency project only if those
37 property tax proceeds exceed the amount necessary to do the
38 following:

39 (i) Make, when due, any payments required under clauses
40 (A) through (K), including any payments of principal and

interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

(N) Subject to approval by the fiscal body of the unit that established the redevelopment commission, to pay the operating costs, or a part of the operating costs, of:

(i) a unit's law enforcement agency;

(ii) a unit's fire department, including a fire protection district established under IC 36-8-11 or a fire protection territory established under IC 36-8-19; and

(iii) emergency medical services operated or maintained by a unit;

that serve, in whole or in part, the allocation area. However, the amount of money spent annually for this purpose may not exceed fifteen percent (15%) of the allocated tax proceeds received on an annual basis.

The allocation fund may not be used for operating expenses of the commission.

(4) Except as provided in subsection (g), before June 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3), plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are

1 authorized to fix budgets, tax rates, and tax levies under
 2 IC 6-1.1-17-5 for each of the other taxing units that is wholly
 3 or partly located within the allocation area. The county auditor,
 4 upon receiving the notice, shall forward this notice (in an
 5 electronic format) to the department of local government
 6 finance not later than June 15 of each year. The notice must:

7 (i) state the amount, if any, of excess assessed value that the
 8 commission has determined may be allocated to the
 9 respective taxing units in the manner prescribed in
 10 subdivision (1); or

11 (ii) state that the commission has determined that there is no
 12 excess assessed value that may be allocated to the respective
 13 taxing units in the manner prescribed in subdivision (1).

14 The county auditor shall allocate to the respective taxing units
 15 the amount, if any, of excess assessed value determined by the
 16 commission. The commission may not authorize an allocation
 17 of assessed value to the respective taxing units under this
 18 subdivision if to do so would endanger the interests of the
 19 holders of bonds described in subdivision (3) or lessors under
 20 section 25.3 of this chapter.

21 (C) If:

22 (i) the amount of excess assessed value determined by the
 23 commission is expected to generate more than two hundred
 24 percent (200%) of the amount of allocated tax proceeds
 25 necessary to make, when due, principal and interest
 26 payments on bonds described in subdivision (3); plus

27 (ii) the amount necessary for other purposes described in
 28 subdivision (3);

29 the commission shall submit to the legislative body of the unit
 30 its determination of the excess assessed value that the
 31 commission proposes to allocate to the respective taxing units
 32 in the manner prescribed in subdivision (1). The legislative
 33 body of the unit may approve the commission's determination
 34 or modify the amount of the excess assessed value that will be
 35 allocated to the respective taxing units in the manner
 36 prescribed in subdivision (1).

37 (5) Notwithstanding subdivision (4), in the case of an allocation
 38 area that is established after June 30, 2019, and that is located in
 39 a redevelopment project area described in section 25.1(c)(3)(C)
 40 of this chapter, an economic development area described in

section 25.1(c)(3)(C) of this chapter, or an urban renewal project area described in section 25.1(c)(3)(C) of this chapter, for each year the allocation provision is in effect, if the amount of excess assessed value determined by the commission under subdivision (4)(A) is expected to generate more than two hundred percent (200%) of:

(A) the amount of allocated tax proceeds necessary to make, when due, principal and interest payments on bonds described in subdivision (3) for the project; plus

(B) the amount necessary for other purposes described in subdivision (3) for the project;

the amount of the excess assessed value that generates more than two hundred percent (200%) of the amounts described in clauses (A) and (B) shall be allocated to the respective taxing units in the manner prescribed by subdivision (1).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone

created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each reassessment in an area under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of

1 local government finance shall adjust the base assessed value one (1)
 2 time to neutralize any effect of the annual adjustment on the property
 3 tax proceeds allocated to the redevelopment district under this section.

4 However, the adjustments under this subsection:

5 (1) may not include the effect of phasing in assessed value due to
 6 property tax abatements under IC 6-1.1-12.1;

7 (2) may not produce less property tax proceeds allocable to the
 8 redevelopment district under subsection (b)(3) than would
 9 otherwise have been received if the reassessment under the
 10 reassessment plan or the annual adjustment had not occurred; and

11 (3) may decrease base assessed value only to the extent that
 12 assessed values in the allocation area have been decreased due to
 13 annual adjustments or the reassessment under the reassessment
 14 plan.

15 Assessed value increases attributable to the application of an abatement
 16 schedule under IC 6-1.1-12.1 may not be included in the base assessed
 17 value of an allocation area. The department of local government
 18 finance may prescribe procedures for county and township officials to
 19 follow to assist the department in making the adjustments.

20 (i) The allocation deadline referred to in subsection (b) is
 21 determined in the following manner:

22 (1) The initial allocation deadline is December 31, 2011.

23 (2) Subject to subdivision (3), the initial allocation deadline and
 24 subsequent allocation deadlines are automatically extended in
 25 increments of five (5) years, so that allocation deadlines
 26 subsequent to the initial allocation deadline fall on December 31,
 27 2016, and December 31 of each fifth year thereafter.

28 (3) At least one (1) year before the date of an allocation deadline
 29 determined under subdivision (2), the general assembly may enact
 30 a law that:

31 (A) terminates the automatic extension of allocation deadlines
 32 under subdivision (2); and

33 (B) specifically designates a particular date as the final
 34 allocation deadline.

35 (j) If a redevelopment commission adopts a declaratory resolution
 36 or an amendment to a declaratory resolution that contains an allocation
 37 provision and the redevelopment commission makes either of the
 38 filings required under section 17(e) of this chapter after the first
 39 anniversary of the effective date of the allocation provision, the auditor
 40 of the county in which the unit is located shall compute the base

assessed value for the allocation area using the assessment date immediately preceding the later of:

- (1) the date on which the documents are filed with the county auditor; or
- (2) the date on which the documents are filed with the department of local government finance.

SECTION 6. IC 36-7-25-7, AS ADDED BY P.L.182-2009(ss), SECTION 513, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) As used in this section, "eligible entity" means a person whose principal functions include the provision of:

- (1) educational programs;
- (2) work training programs;
- (3) worker retraining programs; or
- (4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(b) After making the findings set forth in subsection (c), a commission, or two (2) or more commissions acting jointly, may contract with an eligible entity to provide:

- (1) educational programs;
- (2) work training programs;
- (3) worker retraining programs; or
- (4) any other programs;

designed to prepare individuals to participate in the competitive and global economy. **In the case of an eligible entity that is a school corporation, and subject to the approval of the fiscal body of the unit that established the commission, revenues provided for a program described in subdivisions (1) through (4) may also be used by the school corporation to pay overhead and operational expenditures, and nonoperational expenditures under IC 20-42.5, of the school corporation.**

(c) Before a commission may contract for a program described in subsection (b), the commission must find that the program will promote the redevelopment and economic development of the unit, is of utility and benefit, and is in the best interests of the unit's residents.

(d) Except as provided in subsection (e), a commission may use any revenues legally available to the commission to fund a program described in subsection (b).

(e) A commission may not spend:

- 1 (1) bond proceeds; or
- 2 (2) more than fifteen percent (15%) of the allocated tax proceeds
- 3 it receives on an annual basis;
- 4 to fund a program described in subsection (b)."
- 5 Renumber all SECTIONS consecutively.
(Reference is to HB 1246 as printed January 24, 2022.)