

PROPOSED AMENDMENT

HB 1246 # 1

DIGEST

Fire protection territory. Allows a total tax rate levied upon the formation of a fire protection territory established after December 31, 2022, to be implemented over a number of years, not exceeding five, and subject to review and approval by the department of local government finance. Provides that the maximum permissible ad valorem property tax levy that would otherwise apply to a participating unit does not apply to property taxes imposed by the participating unit to meet obligations to the fire protection territory over the period of years in which a total tax rate is implemented. Provides that a participating unit's proceeds of property taxes imposed to meet the participating unit's obligations to a fire protection territory are exempt from areas needing redevelopment, redevelopment project areas, urban renewal project areas, economic development areas, or economic development districts established after December 31, 2021.

- 1 Page 2, after line 42, begin a new paragraph and insert:
- 2 "SECTION 2. IC 6-1.1-18.5-10.5, AS AMENDED BY
- 3 P.L.159-2020, SECTION 34, IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10.5. (a) The ad
- 5 valorem property tax levy limits imposed by section 3 of this chapter
- 6 do not apply to ad valorem property taxes imposed by a civil taxing
- 7 unit for fire protection services within a fire protection territory under
- 8 IC 36-8-19, if the civil taxing unit is a participating unit in a fire
- 9 protection territory established before August 1, 2001. For purposes of
- 10 computing the ad valorem property tax levy limits imposed on a civil
- 11 taxing unit by section 3 of this chapter on a civil taxing unit that is a
- 12 participating unit in a fire protection territory, established before
- 13 August 1, 2001, the civil taxing unit's ad valorem property tax levy for
- 14 a particular calendar year does not include that part of the levy imposed
- 15 under IC 36-8-19. Any property taxes imposed by a civil taxing unit
- 16 that are exempted by this subsection from the ad valorem property tax
- 17 levy limits imposed by section 3 of this chapter and first due and
- 18 payable after December 31, 2008, may not increase annually by a
- 19 percentage greater than the result of:
- 20 (1) the maximum levy growth quotient determined under section
- 21 2 of this chapter; minus
- 22 (2) one (1).

(b) The department of local government finance may, under this subsection, increase the maximum permissible ad valorem property tax levy that would otherwise apply to a civil taxing unit under section 3 of this chapter to meet the civil taxing unit's obligations to a fire protection territory established under IC 36-8-19. To obtain an increase in the civil taxing unit's maximum permissible ad valorem property tax levy, a civil taxing unit shall submit a petition to the department of local government finance in the year immediately preceding the first year in which the civil taxing unit levies a tax to support the fire protection territory. The petition must be filed before the date specified in section 12(a)(1) of this chapter of that year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for the ensuing calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory, including the participating unit's reasonable share of an operating balance for the fire protection territory. The department of local government finance shall determine the entire amount of the allowable adjustment in the final determination. The department shall order the adjustment implemented in the amounts and over the number of years, not exceeding three (3), requested by the petitioning civil taxing unit. However, the department of local government finance may not approve under this subsection a property tax levy greater than zero (0) if the civil taxing unit did not exist as of the assessment date for which the tax levy will be imposed. For purposes of applying this subsection to the civil taxing unit's maximum permissible ad valorem property tax levy in subsequent calendar years, the department of local government finance may determine not to consider part or all of the part of the property tax levy imposed to establish the operating balance of the fire protection territory.

(c) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after December 31, 2022. Notwithstanding any other law, if a total tax rate levied upon the formation of a fire protection territory established under IC 36-8-19 is to be implemented over a number of years as provided in IC 36-8-19-7(c), the maximum permissible ad valorem property tax levy that would otherwise apply to a participating

unit under section 3 of this chapter to meet the participating unit's obligations to a fire protection territory does not apply to ad valorem property taxes imposed by the participating unit to meet the participating unit's obligations to the fire protection territory over the number of years in which the total tax rate is to be implemented by each participating unit. For purposes of calculating the maximum permissible ad valorem property tax levy imposed by a participating unit for each year for which the participating unit implements a total tax rate to support the fire protection territory, the participating unit's maximum permissible ad valorem property tax levy for the preceding calendar year under section 3(a) STEP ONE of this chapter is increased each year by an amount equal to the difference between:

- (1) the amount the participating unit will have to levy for the ensuing calendar year in order to fund the participating unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and
- (2) the participating unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the fire protection territory.

SECTION 3. IC 6-1.1-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]:
 Sec. 1. (a) This chapter applies to all counties, cities, and towns (referred to in this chapter as units).

(b) Notwithstanding any other law, for economic development districts established:

- (1) after January 1, 1992, this chapter does not apply to fire protection districts established under IC 36-8-11; and
- (2) after December 31, 2021, this chapter does not apply to the part of a participating unit's proceeds of property taxes imposed for an assessment date with respect to which the allocation and distribution is made that are attributable to property taxes imposed to meet the participating unit's obligations to a fire protection territory established under IC 36-8-19.

SECTION 4. IC 36-7-14-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: **Sec. 1.7. Notwithstanding**

any other law, for:

- (1) areas needing redevelopment;
- (2) redevelopment project areas;
- (3) urban renewal project areas; or
- (4) economic development areas;

established after December 31, 2021, this chapter does not apply to the part of a participating unit's proceeds of property taxes imposed for an assessment date with respect to which the allocation and distribution is made that are attributable to property taxes imposed to meet the participating unit's obligations to a fire protection territory established under IC 36-8-19.

SECTION 5. IC 36-8-19-6, AS AMENDED BY P.L.14-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) To establish or expand a fire protection territory, the legislative bodies of each unit or fire protection district:

- (1) desiring to establish a fire protection territory; or
- (2) desiring to expand an existing fire protection territory by:
 - (A) becoming a participating unit in; or
 - (B) approving the addition of a participating unit in;

an existing fire protection territory; must adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of a township or a fire protection district).

(b) The ordinance or resolution must meet the following requirements:

- (1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units or fire protection districts desiring to establish or expand the proposed territory.
- (2) The ordinance or resolution is adopted after January 1 but before April 1.
- (3) The ordinance or resolution authorizes the unit or fire protection district to become a party to an agreement for the establishment of a fire protection territory or the expansion of an existing fire protection territory.
- (4) An ordinance or resolution is adopted after the legislative body holds at least three (3) public hearings to receive public comment on the proposed ordinance or resolution as follows:
 - (A) At least one (1) public hearing must be held at least thirty (30) days before the legislative body votes on the adoption of the ordinance or resolution. At the hearing, the legislative body shall make available to the public the information

1 required by subsection (c) concerning the fiscal impact of the
2 proposed fire protection territory.

3 (B) At least two (2) public hearings must be held after the
4 public hearing in clause (A), with the last public hearing held
5 not later than ten (10) days before the legislative body votes on
6 the adoption of the ordinance or resolution.

7 The legislative body must give notice of the hearings under
8 IC 5-3-1.

9 (c) The legislative body must make available to the public the
10 following information:

11 (1) The property tax levy, property tax rate, and budget to be
12 imposed or adopted during the first year of the proposed territory
13 for each of the units or fire protection districts that would
14 participate in the proposed territory. **If a property tax rate is to**
15 **be implemented over a number of years as provided in section**
16 **7(c) of this chapter, the information under this subdivision**
17 **must include the amount of the intended property tax rate**
18 **after having been fully implemented.**

19 (2) The estimated effect of the proposed reorganization in the
20 following years on taxpayers in each of the units or fire protection
21 districts that would participate in the proposed territory, including
22 the expected property tax rates, property tax levies, expenditure
23 levels, service levels, and annual debt service payments.

24 (3) The estimated effect of the proposed reorganization on other
25 units in the county in the following years and on local option
26 income taxes, excise taxes, and property tax circuit breaker
27 credits.

28 (4) A description of the planned services and staffing levels to be
29 provided in the proposed territory.

30 (5) A description of any capital improvements to be provided in
31 the proposed territory.

32 (d) The notice required for a hearing under subsection (b)(4) shall
33 include all of the following:

34 (1) A list of the provider unit and all participating units in the
35 proposed territory.

36 (2) The date, time, and location of the hearing.

37 (3) The location where the public can inspect the proposed
38 ordinance or resolution.

39 (4) A statement as to whether the proposed ordinance or
40 resolution requires uniform tax rates or different tax rates within

1 the territory.

2 (5) The name and telephone number of a representative of the unit
3 or fire protection district who may be contacted for further
4 information.

5 (6) The proposed levies and tax rates for each participating unit,
6 **and whether a tax rate will be implemented over a number of**
7 **years under section 7(c) of this chapter.**

8 (e) The ordinance or resolution adopted under this section shall
9 include at least the following:

10 (1) The boundaries of the proposed territory.

11 (2) The identity of the provider unit and all other participating
12 units desiring to be included within the territory.

13 (3) An agreement to impose:

14 (A) a uniform tax rate upon all of the taxable property within
15 the territory for fire protection services; or

16 (B) different tax rates for fire protection services for the units
17 or fire protection districts desiring to be included within the
18 territory, so long as a tax rate applies uniformly to all of a
19 unit's or fire protection district's taxable property within the
20 territory.

21 (4) An agreement as to how the property that is held by the
22 territory will be disposed of if:

23 (A) a participating unit withdraws from the territory; or

24 (B) the territory is dissolved.

25 (5) The contents of the agreement to establish the territory.

26 (f) An ordinance or a resolution adopted under this section takes
27 effect July 1 of the year the ordinance or resolution is adopted.

28 SECTION 6. IC 36-8-19-7, AS AMENDED BY P.L.255-2017,
29 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2022]: Sec. 7. (a) A tax levied under this chapter may be
31 levied at:

32 (1) a uniform rate upon all taxable property within the territory;
33 or

34 (2) different rates for the participating units included within the
35 territory, so long as a tax rate applies uniformly to all of a unit's
36 or fire protection district's taxable property within the territory.

37 (b) If a uniform tax rate is levied upon all taxable property within a
38 territory upon the formation of the territory, different tax rates may be
39 levied for the participating units included within the territory in
40 subsequent years.

(c) This subsection applies to a territory established by an ordinance or a resolution adopted under this chapter after December 31, 2022. A total tax rate levied under this chapter upon taxable property within a territory upon the formation of the territory may be implemented over a number of years, not exceeding five (5), and in a manner subject to review and approval by the department of local government finance.

SECTION 7. IC 36-8-19-8, AS AMENDED BY P.L.183-2014, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).
- (3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.
- (4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory. The provider unit may maintain a reasonable balance, not to exceed one hundred twenty percent (120%) of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, **and subject to section 7(c) of this chapter**, after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. **Subject to IC 6-1.1-18.5-10.5(c)**, the amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

1 (d) If the amount levied in a particular year is insufficient to cover
2 the costs incurred in providing fire protection services within the
3 territory, the provider unit may transfer from available sources to the
4 fire protection territory fund the money needed to cover those costs. In
5 this case:

6 (1) the levy in the following year shall be increased by the amount
7 required to be transferred; and

8 (2) the provider unit is entitled to transfer the amount described
9 in subdivision (1) from the fund as reimbursement to the provider
10 unit.

11 (e) If the amount levied in a particular year exceeds the amount
12 necessary to cover the costs incurred in providing fire protection
13 services within the territory, the levy in the following year shall be
14 reduced by the amount of surplus money that is not transferred to the
15 equipment replacement fund established under section 8.5 of this
16 chapter. The amount that may be transferred to the equipment
17 replacement fund may not exceed five percent (5%) of the levy for that
18 fund for that year. Each participating unit must agree to the amount to
19 be transferred by adopting an ordinance (if the unit is a county or
20 municipality) or a resolution (if the unit is a township) that specifies an
21 identical amount to be transferred.

22 (f) The tax under this section is subject to the tax levy limitations
23 imposed under IC 6-1.1-18.5-10.5."

24 Renumber all SECTIONS consecutively.

(Reference is to HB 1246 as introduced.)