

HOUSE BILL No. 1368

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-42.

Synopsis: Riverfront economic development tax area. Allows the legislative body of a city or a county without a consolidated city to adopt a resolution establishing a riverfront economic development tax area (tax area). Sets forth requirements for the location of the tax area. Requires the legislative body to make findings when adopting a resolution. Requires the legislative body to submit a resolution establishing a tax area to the budget committee and budget agency for review and approval. Allows a tax area to receive incremental state income tax revenue and incremental sales tax revenue attributable to the tax area. Requires a city or county that establishes a tax area to establish a riverfront economic development area fund. Provides that a tax area terminates not later than 25 years after the date on which the resolution establishing the tax area is adopted.

Effective: July 1, 2024.

Pfaff, Campbell, Fleming, Errington

January 10, 2024, read first time and referred to Committee on Local Government.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1368

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-42 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2024]:

4 **Chapter 42. Riverfront Economic Development Area**

5 **Sec. 1. This chapter applies to a city or a county without a**
6 **consolidated city.**

7 **Sec. 2. As used in this chapter, "budget agency" means the**
8 **budget agency created by IC 4-12-1-3.**

9 **Sec. 3. As used in this chapter, "budget committee" means the**
10 **budget committee established by IC 4-12-1-3.**

11 **Sec. 4. As used in this chapter, "department" refers to the**
12 **department of state revenue.**

13 **Sec. 5. As used in this chapter, "designating body" means a:**

14 (1) city legislative body; or

15 (2) county legislative body;

16 **that may establish a tax area under this chapter.**

17 **Sec. 6. As used in this chapter, "gross retail base period**



1 amount" means the aggregate amount of state gross retail and use
 2 taxes remitted under IC 6-2.5 by the businesses operating in the
 3 territory comprising a tax area during the full state fiscal year that
 4 precedes the date on which the designating body adopts a
 5 resolution establishing a tax area under section 14 of this chapter.

6 Sec. 7. As used in this chapter, "gross retail incremental
 7 amount" means the remainder of:

8 (1) the aggregate amount of state gross retail and use taxes
 9 that are remitted under IC 6-2.5 by businesses operating in a
 10 tax area during a state fiscal year; minus

11 (2) the gross retail base period amount;

12 as determined by the department under section 19 of this chapter.

13 Sec. 8. As used in this chapter, "income tax base period
 14 amount" means the aggregate amount of state income tax paid by
 15 employees employed in the territory comprising a tax area with
 16 respect to wages and salary earned for work in the tax area for the
 17 full state fiscal year that precedes the date on which the
 18 designating body adopts a resolution establishing a tax area under
 19 section 14 of this chapter.

20 Sec. 9. As used in this chapter, "income tax incremental
 21 amount" means the remainder of:

22 (1) the aggregate amount of state income tax paid by
 23 employees employed in a tax area with respect to wages
 24 earned for work in the tax area for a particular state fiscal
 25 year; minus

26 (2) the income tax base period amount;

27 as determined by the department under section 19 of this chapter.

28 Sec. 10. As used in this chapter, "state income tax" means tax
 29 imposed under IC 6-3-1 through IC 6-3-7 (the adjusted gross
 30 income tax).

31 Sec. 11. As used in this chapter, "tax area" means a geographic
 32 area established as a riverfront economic development area under
 33 section 14 of this chapter.

34 Sec. 12. As used in this chapter, "taxpayer" means a person that
 35 is liable for the part of the following taxes attributable to a tax area
 36 established under section 14 of this chapter:

37 (1) The state gross retail tax imposed under IC 6-2.5-2-1 or
 38 use tax imposed under IC 6-2.5-3-2.

39 (2) State income tax.

40 Sec. 13. A designating body may establish a riverfront economic
 41 development area that may include any facility or complex of
 42 facilities located in an area within the territory of the city or



1 county with boundaries that:

- 2 (1) border on at least one (1) side of a river; and
 3 (2) may not be located more than:
 4 (A) one thousand five hundred (1,500) feet; or
 5 (B) three (3) city blocks;
 6 from the river, whichever is greater.

7 However, if the area adjacent to the river is incapable of being
 8 developed because the area is in a floodplain, or for any other
 9 reason that prevents the area from being developed, the distances
 10 described in subdivision (2) are measured from the city blocks
 11 located nearest to the river that are capable of being developed.

12 Sec. 14. (a) A tax area must be initially established by resolution
 13 according to the procedures set forth for the establishment of an
 14 economic development area under IC 36-7-14. A resolution
 15 establishing a tax area must provide for the allocation of income
 16 tax incremental amounts and gross retail incremental amounts
 17 attributable to the tax area.

18 (b) In establishing the tax area, instead of the findings required
 19 for the establishment of economic development areas under
 20 IC 36-7-14, the designating body must find that establishment of
 21 the tax area will do all of the following:

- 22 (1) Attract new business enterprises to the district or retain or
 23 expand existing business enterprises in the district.
 24 (2) Benefit the public health and welfare and be of public
 25 utility and benefit.
 26 (3) Protect and increase state and local tax bases or revenues.
 27 (4) Result in a substantial increase in temporary and
 28 permanent employment opportunities and private sector
 29 investment within the district.

30 (c) A designating body adopting a resolution under this section
 31 shall designate the duration of the tax area. However, a tax area
 32 must terminate not later than twenty-five (25) years after the date
 33 on which the resolution establishing the tax area is adopted.

34 (d) The tax area established under this chapter is a special
 35 taxing district authorized by the general assembly to enable the
 36 designating body to provide special benefits to taxpayers in the tax
 37 area by promoting economic development that is of public utility
 38 and benefit.

39 Sec. 15. Except as otherwise provided in this chapter, after a tax
 40 area is initially established, the tax area may not be changed and
 41 the terms governing the tax area may not be revised.

42 Sec. 16. (a) Upon adoption of a resolution establishing a tax area



1 under section 14 of this chapter, the designating body shall submit
2 the following to the budget committee for review:

- 3 (1) A copy of the resolution.
4 (2) A map of the tax area.
5 (3) A complete list of employers in the area and street names
6 and the range of street numbers of each street in the area.
7 (4) Any other information requested by the budget committee.

8 (b) The budget committee shall meet not later than sixty (60)
9 days after receipt of the materials described in subsection (a) and
10 make a recommendation on the resolution to the budget agency.

11 Sec. 17. (a) The budget agency must approve the resolution
12 before the income tax incremental amount and the gross retail
13 incremental amount may be allocated to the tax area under this
14 chapter.

15 (b) When considering a resolution, the budget committee and
16 the budget agency must make the following findings:

- 17 (1) The area designated as the tax area meets the conditions
18 necessary for the designation as a tax area under section 13 of
19 this chapter.
20 (2) The establishment of the tax area will benefit the people of
21 Indiana by protecting or increasing state and local tax bases
22 and tax revenues for at least the duration of the tax area
23 established under this chapter.

24 Sec. 18. If a tax area is established under section 14 of this
25 chapter, the city or county shall create a riverfront economic
26 development area fund that consists of all deposits made under
27 section 20(c) of this chapter. Money in the fund is to be used for the
28 purposes described in section 22 of this chapter.

29 Sec. 19. (a) Before October 1 of each year, the department shall
30 calculate the income tax incremental amount and the gross retail
31 incremental amount for the preceding state fiscal year for each tax
32 area established under this chapter.

33 (b) Businesses operating in the tax area shall report annually, in
34 the manner and in the form prescribed by the department,
35 information that the department determines necessary to calculate
36 incremental gross retail, use, and income taxes. A taxpayer
37 operating in the tax area that files a consolidated tax return with
38 the department shall also file annually an informational return
39 with the department for each business location of the taxpayer
40 within the tax area. If a taxpayer fails to report the information
41 required by this section or file an informational return required by
42 this section, the department shall use the best information available



1 in calculating the incremental gross retail, use, and income taxes.

2 **Sec. 20. (a)** If a designating body adopts a resolution establishing
 3 a tax area under section 14 of this chapter, a state fund known as
 4 the incremental tax financing fund is established for the tax area.
 5 The fund shall be administered by the department. Money in the
 6 fund at the end of a state fiscal year does not revert to the state
 7 general fund.

8 **(b)** The following amounts shall be deposited during each state
 9 fiscal year in the incremental tax financing fund established for the
 10 tax area under subsection (a):

11 **(1)** The aggregate amount of state gross retail and use taxes
 12 that are remitted under IC 6-2.5 by businesses operating in
 13 the tax area, until the amount of state gross retail and use
 14 taxes deposited equals the gross retail incremental amount for
 15 the tax area.

16 **(2)** The aggregate amount of state income tax paid by
 17 employees employed in the tax area with respect to wages
 18 earned for work in the tax area, until the amount of state
 19 income tax deposited equals the income tax incremental
 20 amount.

21 **(c)** On or before the twentieth day of each month, all amounts
 22 held in the incremental tax financing fund established for a tax
 23 area shall be distributed to the fiscal officer of the city or county
 24 for deposit in the city's or county's riverfront economic
 25 development area fund, as applicable.

26 **Sec. 21.** All distributions from the incremental tax financing
 27 fund to the city or county shall be made by warrants issued by the
 28 state comptroller to the treasurer of state ordering those payments
 29 to the fiscal officer of the city or the fiscal officer of the county, as
 30 applicable.

31 **Sec. 22.** The resolution establishing the tax area under section
 32 14 of this chapter must designate the use of the income tax
 33 incremental amounts and the gross retail incremental amounts
 34 attributable to the tax area. The funds may be used for the
 35 following:

36 **(1)** To acquire, design, improve, prepare, construct, maintain,
 37 repair, operate, furnish, and equip capital improvements and
 38 facilities located in, physically connected to, or directly
 39 serving the tax area.

40 **(2)** To pay the principal and interest on any obligations,
 41 including leases, that are payable solely or in part from money
 42 deposited in the riverfront economic development area fund



1 **and are incurred by the city or county for the purpose of**
 2 **financing or refinancing the development of capital**
 3 **improvements or facilities located in, physically connected to,**
 4 **or directly serving the tax area.**
 5 **(3) To establish, augment, or restore a debt service reserve for**
 6 **obligations.**
 7 **(4) To pay capital expenses incurred by the city or county for**
 8 **capital improvements or facilities that are physically**
 9 **connected to or directly serving the tax area.**
 10 **Sec. 23. An action to contest the validity of:**
 11 **(1) bonds issued under this chapter;**
 12 **(2) a pledge of financial support related to bonds issued under**
 13 **this chapter; or**
 14 **(3) a contract or lease entered into under this chapter;**
 15 **may not be brought after the fifteenth day following the issuance**
 16 **of the bonds, the entering into the pledge related to bonds, or the**
 17 **entering into the contract or lease.**
 18 **Sec. 24. The general assembly covenants that this chapter will**
 19 **not be repealed or amended in a manner that will adversely affect**
 20 **the owners of bonds or other obligations issued under this chapter.**

