

# HOUSE BILL No. 1369

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1; IC 33-26-6-7.

**Synopsis:** Property tax assessment appeals. Changes references to the "supreme court" to the "court of appeals" in provisions relating to the payment of taxes pending appeals. Provides that decisions of the tax court may be appealed directly to the court of appeals (rather than the supreme court).

**Effective:** July 1, 2023.

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## Steuerwald

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January 17, 2023, read first time and referred to Committee on Judiciary.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1369

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

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

- 1 SECTION 1. IC 6-1.1-8-36 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 36. (a) A public utility  
3 company shall pay any taxes which are based upon the department of  
4 local government finance's assessment of distributable property  
5 regardless of whether or not an appeal of the assessment is pending.  
6 However, the collection of the taxes may be enjoined pending an  
7 original tax appeal under IC 33-26.  
8 (b) The department of local government finance shall reassess  
9 distributable property and shall certify the reassessment to the county  
10 auditor of each county in which the property is taxable if:  
11 (1) the Indiana board:  
12 (A) sets aside the department's original assessment and orders  
13 the department to reassess the distributable property; or  
14 (B) refers the matter to the department under section 32 of this  
15 chapter with instructions to make another assessment; and  
16 (2) the decision of:  
17 (A) the Indiana board is not appealed to the tax court; or



1 (B) the tax court in which the matter was referred to the  
 2 department under section 32 of this chapter is not appealed to  
 3 the ~~supreme~~ court **of appeals**.

4 (c) If the tax court sets aside the Indiana board's final determination  
 5 and the Indiana board reassesses distributable property, the Indiana  
 6 board shall certify the reassessment to the county auditor of each  
 7 county in which the property is taxable if the decision of the tax court  
 8 is not appealed to the ~~supreme~~ court **of appeals**.

9 SECTION 2. IC 6-1.1-8.5-11, AS AMENDED BY  
 10 P.L.182-2009(ss), SECTION 105, IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) The industrial  
 12 company that owns or uses the industrial facility assessed by the  
 13 department of local government finance under this chapter may appeal  
 14 that assessment to the Indiana board. Subject to subsections (b), (c),  
 15 (d), and (e), the county assessor of the county in which the industrial  
 16 facility assessed by the department of local government finance is  
 17 located may appeal that assessment to the Indiana board.

18 (b) The county assessor of a qualifying county may not expend  
 19 public money appealing an assessment under this section unless the  
 20 following requirements are met before a petition for review is  
 21 submitted to the Indiana board:

22 (1) The county assessor submits to the county fiscal body a  
 23 written estimate of the cost of the appeal.

24 (2) The county fiscal body adopts a resolution approving the  
 25 county assessor's proposed expenditure to carry out the appeal.

26 (3) The total amount of the proposed expenditure is in accordance  
 27 with an appropriation made by the county fiscal body in the  
 28 manner provided by law.

29 (c) Except as otherwise provided in subsections (d) and (e), an  
 30 appeal under this section shall be conducted in the same manner as an  
 31 appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment  
 32 made under this chapter that is not appealed under this section is a final  
 33 unappealable order of the department of local government finance.

34 (d) With respect to an appeal filed by a county assessor under this  
 35 section the following apply:

36 (1) In the petition for review to the Indiana board, the county  
 37 assessor shall state what the county assessor contends the  
 38 assessed value of the industrial facility should be and provide  
 39 substantial evidence in support of that contention. Failure to  
 40 comply with this requirement results in dismissal of the county  
 41 assessor's petition for review and no further appeal of the  
 42 assessment by the county assessor may be taken.



1 (2) Not later than thirty (30) days after the county assessor files a  
 2 petition for review in compliance with subdivision (1), the  
 3 Indiana board shall hold a hearing at which the county assessor  
 4 must establish a reasonable likelihood of success on any  
 5 contentions made in the petition for review including, without  
 6 limitation, the contention required under subdivision (1)  
 7 regarding the assessed value of the real estate. The industrial  
 8 company whose industrial facility is the subject of the county  
 9 assessor's petition for review and the department of local  
 10 government finance has the right to appear at this hearing and to  
 11 present testimony, to cross-examine witnesses, and to present  
 12 evidence regarding the county assessor's contentions.

13 (3) Not later than thirty (30) days after the hearing held under  
 14 subdivision (2), the Indiana board shall issue a determination  
 15 whether the county assessor has established a reasonable  
 16 likelihood of success on the contentions in the petition for review.  
 17 If the Indiana board determines that the county assessor has not  
 18 established a reasonable likelihood of success on the contentions  
 19 in the petition for review, the county assessor's petition for review  
 20 shall be dismissed and no further appeal of the assessment by the  
 21 county assessor may be taken. If the Indiana board determines that  
 22 the county assessor has established a reasonable likelihood of  
 23 success on the contentions in the petition for review, the Indiana  
 24 board's determination does not create the presumption that the  
 25 county assessor's contentions are valid. A determination by the  
 26 Indiana board that the county assessor has established a  
 27 reasonable likelihood of success on the contentions in the petition  
 28 for review may be appealed to the Indiana tax court as an  
 29 interlocutory appeal. A party may petition for review by the  
 30 ~~Indiana supreme~~ **court of appeals** of the Indiana tax court's ruling  
 31 regarding an interlocutory appeal brought under this subdivision.

32 (4) The Indiana board shall not hold a hearing on the appeal under  
 33 IC 6-1.1-15-4 and the county assessor shall not be permitted to  
 34 conduct discovery under the Indiana board's administrative rules  
 35 until a determination has been issued under subdivision (3) and:

36 (A) any interlocutory appeal under subdivision (3) has been  
 37 ruled on by the Indiana tax court; or

38 (B) the ~~Indiana supreme~~ **court of appeals** has either rejected  
 39 a petition for review concerning the Indiana tax court's ruling  
 40 on the interlocutory appeal or issued a decision regarding the  
 41 Indiana tax court's ruling on the interlocutory appeal.

42 (e) On any appeal that has not been dismissed, the Indiana board



1 shall issue an order within one (1) year after:

- 2 (1) the taxpayer filed its petition for review;
- 3 (2) the issuance of the Indiana board's determination under
- 4 subsection (d)(3) in the case of an appeal by the county assessor;
- 5 or
- 6 (3) the Indiana tax court or ~~Indiana supreme court of appeals~~
- 7 rules on a taxpayer's interlocutory appeal under subsection (d)(3)
- 8 in the case of an appeal by the county assessor;

9 whichever is latest.

10 SECTION 3. IC 6-1.1-8.7-8, AS AMENDED BY P.L.182-2009(ss),

11 SECTION 106, IS AMENDED TO READ AS FOLLOWS

12 [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) The industrial company that

13 owns or uses the industrial facility assessed by the department under

14 this chapter may appeal that assessment to the Indiana board. Subject

15 to subsections (b), (c), (d), and (e), the county assessor of the county in

16 which the industrial facility is located may appeal an assessment by the

17 department made under this chapter to the Indiana board.

18 (b) The county assessor of a qualifying county may not expend

19 public money appealing an assessment under this section unless the

20 following requirements are met before a petition for review is

21 submitted to the Indiana board:

- 22 (1) The county assessor submits to the county fiscal body a
- 23 written estimate of the cost of the appeal.
- 24 (2) The county fiscal body adopts a resolution approving the
- 25 county assessor's proposed expenditure to carry out the appeal.
- 26 (3) The total amount of the proposed expenditure is in accordance
- 27 with an appropriation made by the county fiscal body in the
- 28 manner provided by law.

29 (c) Except as otherwise provided in subsections (d) and (e), an

30 appeal under this section shall be conducted in the same manner as an

31 appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment

32 made under this chapter that is not appealed under this section is a final

33 unappealable order of the department.

34 (d) With respect to an appeal filed by a county assessor under this

35 section the following apply:

- 36 (1) In the petition for review to the Indiana board, the county
- 37 assessor shall state what the county assessor contends the
- 38 assessed value of the industrial facility should be and provide
- 39 substantial evidence in support of that contention. Failure to
- 40 comply with this requirement results in dismissal of the county
- 41 assessor's petition for review, and no further appeal of the
- 42 assessment by the county assessor may be taken.



1 (2) Not later than thirty (30) days after the county assessor files a  
 2 petition for review in compliance with subdivision (1), the  
 3 Indiana board shall hold a hearing at which the county assessor  
 4 must establish a reasonable likelihood of success on any  
 5 contentions made in the petition for review including, without  
 6 limitation, the contention required under subdivision (1)  
 7 regarding the assessed value of the real estate. The industrial  
 8 company whose industrial facility is the subject of the county  
 9 assessor's petition for review and the department have the right to  
 10 appear at this hearing and to present testimony, to cross-examine  
 11 witnesses, and to present evidence regarding the county assessor's  
 12 contentions.

13 (3) Not later than thirty (30) days after the hearing held under  
 14 subdivision (2), the Indiana board shall issue a determination  
 15 whether the county assessor has established a reasonable  
 16 likelihood of success on the contentions in the petition for review.  
 17 If the Indiana board determines that the county assessor has not  
 18 established a reasonable likelihood of success on the contentions  
 19 in the petition for review, the county assessor's petition for review  
 20 shall be dismissed, and no further appeal of the assessment by the  
 21 county assessor may be taken. If the Indiana board determines that  
 22 the county assessor has established a reasonable likelihood of  
 23 success on the contentions in the petition for review, the Indiana  
 24 board's determination does not create the presumption that the  
 25 county assessor's contentions are valid. A determination by the  
 26 Indiana board that the county assessor has established a  
 27 reasonable likelihood of success on the contentions in the petition  
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 30 ~~Indiana supreme~~ **court of appeals** of the Indiana tax court's ruling  
 31 regarding an interlocutory appeal brought under this subdivision.

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 33 IC 6-1.1-15-4 and the county assessor shall not be permitted to  
 34 conduct discovery under the Indiana board's administrative rules  
 35 until a determination has been issued under subdivision (3) and:

36 (A) any interlocutory appeal under subdivision (3) has been  
 37 ruled on by the Indiana tax court; or

38 (B) the ~~Indiana supreme~~ **court of appeals** has either rejected  
 39 a petition for review concerning the Indiana tax court's ruling  
 40 on the interlocutory appeal or issued a decision regarding the  
 41 Indiana tax court's ruling on the interlocutory appeal.

42 (e) On any appeal that has not been dismissed, the Indiana board



1 shall issue an order within one (1) year after:

2 (1) the taxpayer filed its petition for review;

3 (2) the issuance of the Indiana board's determination under  
4 subsection (d)(3) in the case of an appeal by the county assessor;

5 or

6 (3) the Indiana tax court or the ~~Indiana supreme~~ **court of appeals**  
7 rules on a taxpayer's interlocutory appeal under subsection (d)(3)  
8 in the case of an appeal by the county assessor;

9 whichever is latest.

10 SECTION 4. IC 33-26-6-7 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) The tax court  
12 shall render its decisions in writing.

13 (b) Written decisions of the tax court may be published and  
14 distributed in the manner prescribed by the supreme court.

15 (c) A decision of the tax court remanding the matter of assessment  
16 of property under IC 6-1.1-15-8 to the Indiana board of tax review shall  
17 specify the issues on remand on which the Indiana board of tax review  
18 is to act.

19 (d) The decisions of the tax court may be appealed directly to the  
20 ~~supreme~~ **court of appeals.**

