

A Summary of House Enrolled Act 1001-2008
(Section numbers in HEA 1001 are in parentheses.)

Sources: Indiana Legislative Services Agency, "Digest of HB1001", March 14, 2008.
Indiana Legislative Services Agency, "HEA1001 Fiscal Impact Statement 11", March 20, 2008.
Indiana Association of Cities and Towns, "Handbook, House Enrolled Act 1001, 2008 Legislative Session", April 2008.

HEA1001 is an enormous 804 page bill, containing 872 sections. Every provision is important to some taxpayer, state or local agency or official, but here are the provisions likely to have the biggest effects on Indiana taxpayers and government.

Eliminate Property Tax Levies

1. School corporation tuition support levy (807; repeals IC 20-45-3)
2. Special education preschool property tax levy (809; repeals IC 20-46-2)
3. County welfare levies:
 - (a) medical assistance to wards fund levies (822)
 - (b) family and children's fund levies (823)
 - (c) children's psychiatric residential treatment services fund levies (824)
 - (d) children with special health care needs county fund levies (826)
4. Hospital Levies:
 - (a) Hospital care for the indigent fund levy (820)
 - (b) A portion of the Marion County health and hospital corporation levy (391)
5. State property tax levies:
 - (a) State forestry fund
 - (b) State fair
 - (c) Department of local government finance (DLGF) data base management. (424)
6. Maximum levies reduced by the amount of pre-1977 police and firefighter pension payments (the 1925 Police Pension Fund, the 1937 Firefighters' Fund, or the 1953 Police Pension Fund.) (840)
7. Levies used to pay the state department of corrections for juvenile incarceration. (821)

This is a new approach to property tax relief in Indiana. In the past, we have provided across-the-board tax relief, reducing all property tax funds at once. This was the original approach of the Bowen tax reforms of 1973. HEA1001 instead removes whole functions from the property tax, most notably the school general fund and county welfare funds. By 2010, these funds will amount to about \$2.8 billion.

State Assumes Local Costs

1. Increases the state tuition distribution by the amount of the school corporation tuition support levy (854)
2. Requires distributions to school corporations for special education preschool children (854, 856)
3. Child welfare services (822-826)
4. Hospital Costs
 - (a) care for the indigent fund levy (HCI) (820)
 - (b) a portion of the Marion County health and hospital corporation levy (391)
5. Incarcerating delinquent children in a department of correction facility (372, 821)
6. Local government pre-1977 police and firefighter pension payments (36)
7. Costs of state forestry fund, state fair, and DLGF data base management. (859, 860)

All of these are functions currently financed by property taxes. State spending will increase to replace these property taxes.

Property Tax Relief

1. Provides additional homestead credits of \$620 million in 2008, \$140 million in 2009 and \$80 million in 2010. (848-850)
2. Beginning in 2009, abolishes property tax replacement credits and state homestead credits (except for the temporary homestead credits in 2009 and 2010). Revenue used to finance added state costs (above). (813; repeals 6-1.1-20.9, 6-1.1-21)
3. Homesteads receive a supplemental homestead deduction equal to 35% of gross assessed value less the standard deduction, up to \$600,000, and 25% of gross assessed value above \$600,000. (116)
4. Sets the standard deduction at \$45,000, eliminating the phase-down to \$40,000 by 2013. Raises the cap on the standard deduction from 50% of assessed value to 60% of assessed value. (115)
5. People aged 65 or over who own a homestead with a gross assessed value of less than \$160,000, and who have adjusted gross income of \$30,000 (in the case of a single return) or \$40,000 (in the case of a joint return) can receive a property tax credit to hold the annual property tax increase to 2% per year. (225)

In 2008 property tax relief will be provided to homeowners with a large addition to homestead credits of \$620 million. This is in addition to the \$250 million in added homestead credits authorized in 2007, and in addition to the regular homestead credits that have existed since 1980. In 2009 regular homestead credits and property tax replacement credits will be eliminated, and the revenue used to pay for the added state costs from the takeover of some local property taxes. The small amount of temporary homestead credits will continue, equal to \$140 million. Added tax relief will be directed to homeowners through increases in homestead deductions. Lower income people age 65 and over can limit their annual property tax bill increases to 2%. Together, these changes are expected to reduce homeowner property taxes statewide by about a third from what they would have paid otherwise.

State Sales Tax

1. Increases the sales and use tax rates from 6% to 7%, as of April 1, 2008. (310, 311, 314)
2. Reduces sales tax collection allowance percentages for retail merchants. (313)
3. Moves sales tax revenue from property tax replacement fund (which has been eliminated) to the state general fund. (317)

The cost of the added homestead credits in 2008 will be paid for by the initial receipts from the sales tax increase. Sales tax revenue plus the existing state PTRC and homestead credit funds will pay for the added state costs from the levy takeovers.

State Balances and Revenue Distributions

1. Creates the state tuition reserve fund to support school general fund appropriations in times of revenue shortfalls (14).
2. Abolishes the tuition support account in the state general fund. Transfers money from the state general fund to the state tuition reserve fund. (8, 14)
3. Revenues from income taxes and certain wagering taxes are deposited in the state general fund (as the property tax replacement fund is eliminated). (323)

The sales tax is a less stable revenue source than the property tax. HEA1001 creates a state tuition reserve fund to sustain spending if sales tax revenues fall short.

Circuit Breaker Property Tax Credit

1. For property taxes in 2010 and after, the circuit breaker credit limits a person's property tax bill to a percentage of the gross assessed value of the property equal to
 - (a) 1% for homesteads
 - (b) 2% for other residential property, agricultural land and long term care property
 - (c) 3% for nonresidential real property and personal property (223)
2. Circuit breaker credits are phased in for property taxes in 2009. The circuit breaker credit limits a person's property tax liability to a percentage of the gross assessed value of the property equal to
 - (a) 1.5% for homesteads
 - (b) 2.5% for other residential property, agricultural land and long term care property
 - (c) 3.5% for nonresidential real property and personal property (222)
3. Provisions to address local government revenue shortfalls due to circuit breaker credits
 - (a) If a school corporation loses more than 2% of its property tax revenue because of application of the circuit-breaker credits, it receives an added state grant in 2009 and 2010 to replace a portion of the lost revenue. (456)
 - (b) For Lake and St. Joseph counties, property taxes for debt service or lease payments entered into before July 1, 2008, will not be included in the circuit breaker credit calculation. (223)
 - (c) The distressed unit appeal board may consider changes in budgets, organization, circuit breaker credit percentages and other measures to assist a distressed unit. (205)
 - (d) A distressed local government may appeal a decision of the distressed unit appeal board to the tax court for judicial review. (209)
4. Local governments must fully fund the payment of their debt obligations, regardless of any reduction in property tax collections due to the circuit breaker credit. (226)

Earlier legislation set the circuit breaker for homesteads at 2% for 2008. Circuit breaker credits will not be funded by the state, so local governments will lose that part of their property tax levies. School corporations and governments in Lake and St. Joseph counties receive special provisions to reduce their losses. The Legislative Services Agency projects total losses to all local governments at \$524 million by 2010. The bond market may see circuit breakers as limiting the capacity of Indiana local governments to repay debt. This would increase the cost of borrowing. The law tries to reassure the market by requiring local governments to meet their debt obligations despite any shortfalls from circuit breakers.

State Income Taxes

1. Increases the maximum state income tax deduction for renters from \$2,500 to \$3,000 (318).
2. Increases the Indiana earned income tax credit from 6% of the Federal credit to 9% of the Federal credit. (325)
3. Provides that an individual may claim a deduction for state income tax purposes for property taxes that were imposed on the individual's home for the March 1, 2006 assessment date or the January 15, 2007 assessment date, are due after December 31, 2007 and are paid in 2008 on or before the due date for the property taxes. (828)

HEA1001 increases sales taxes to provide property tax relief to homeowners. Renters do not own homes, and so do not receive direct property tax cuts. They do pay higher sales taxes, however. The increase in the renter's deduction on the state income tax partially offsets this increase in sales taxes. Lower income households also receive an increase in the Indiana earned income credit, which provides added tax refunds to lower-income working households.

Local Option Income Taxes

1. Adoption dates

(a) A county council or county income tax council may adopt or increase a local option income tax (LOIT) for property tax relief or public safety at any time during 2008 (that is, before January 1, 2009). (867)

(b) The county council or county income tax council may change the distribution of LOIT revenue for property tax relief for the following year, before October 1. (333)

2. Public meetings by the county council or county income tax council

(a) one public meeting must be held each year to discuss whether a LOIT for property tax relief should be imposed or increased. (331, 341)

(b) To adopt a LOIT that provides tax relief to all taxpayers (not homeowners only), a county council or county income tax council must make available an estimate of the amount of property tax replacement credits to be provided to various classes of property, and adopt a resolution acknowledging that some taxpayers in the county that do not pay the LOIT will receive property tax relief. (333, 343)

3. To adopt the public safety income tax, a county must adopt either the levy freeze income tax or the property tax replacement income tax. The rate for one or the other, or the combine rate for both, must be at least 0.25%. The county does not have to adopt both income taxes to impose the public safety tax. (332, 342)

4. Local income tax distribution issues

(a) Counties will continue to receive CAGIT, COIT, CEDIT and LOIT distributions that would otherwise be lost due to the state takeover of certain property tax levies. (329, 336, 339, 346, 869)

(b) The computation and distribution of excise taxes or local income taxes will be based on the taxing unit's property tax levy before circuit breaker credits. (228)

(c) Adjustments are made to the LOIT rates due to the effect of the elimination of inventory from the definition of personal property. (344, 350)

(d) For Lake County, creates three additional options for the distribution of local option income tax for property tax relief. (333, 343)

5. In a county that adopted a local option income tax in 2007, the county auditor and the county fiscal body may petition the DLGF to use part of the additional 2008 state-funded homestead credit to increase the additional homestead credit provided for 2009 or in both 2009 and 2010. (848, 849, 850)

6. Income tax withholding issues

(a) An individual requesting tax withholding for certain types of income, or filing an estimated tax return, must identify how much is withheld for the state income tax and how much for county income taxes. (319, 320)

(b) The state revenue department will develop crosschecks between annual withholding tax reports and individual taxpayer W-2 forms. (321)

(c) Employers remitting income taxes that result from withholding will report how much is attributable to local income taxes. (330, 340, 348)

7. The department of state revenue and the office of management and budget (OMB) will develop certain reports related to local option income taxes. OMB will submit summary data and information related to local income tax distributions to the counties. (322, 327, 338, 345)

HEA1001 makes some modifications to the new local option income taxes created by the legislature in 2007. In 2008 the deadline for adoption is the end of the year; local income tax hearings must be held each year, and only one of the two property tax reduction income taxes must be adopted before the public safety income tax can be adopted. Homeowners in counties that adopted LOITs in 2007 will see sizable tax reductions, so those counties are allowed to postpone their added state homestead credits for a year or two. This could smooth the transition from property tax relief based on credits, to property tax relief based on higher deductions and levy takeovers.

Referenda for Capital Projects and Budgets

1. “Controlled” capital projects are subject to voter referenda or the petition-remonstrance project. Controlled projects are those that cost the local government more than either \$2 million or 1% of the unit’s gross assessed value of property (if that amount is at least \$1 million). (188)
2. A project approved by the county council that responds to a natural disaster, emergency, or accident which makes an existing facility unusable are not controlled projects subject to the referendum or petition-remonstrance process. (188)
3. Controlled projects that are eligible for the referendum process are those financed by bonds or leases, to be paid for with debt service property taxes, and are
 - (a) School buildings for grades K-8 that cost more than \$10 million
 - (b) School buildings for grades 9-12 that cost more than \$20 million
 - (c) Other civil and school projects with that cost \$12 million or at least 1% of the unit’s assessed value. (193)
4. Controlled projects that are not subject to a referendum are subject to the petition-remonstrance process. (191)
5. Jurisdictions are not allowed to artificially divide bigger projects into smaller projects to avoid the referendum requirement. (194)
6. Referenda may be initiated by either 100 persons who are owners of real property within the local government or registered voters residing within the local government, or 5% of the registered voters residing within the local government. If more than 100 signatures are collected, only up to 125 signatures need to be verified by local officials. (193)
7. Jurisdictions are restricted in the use of public money, facilities and employees to promote one side of a referendum (the same restrictions apply to a petition-remonstrance question). (200)
8. Property taxes approved by the voters in a referendum are not subject to the circuit breaker credit. (222, 223)
9. After June 30, 2008, Department of Local Government Finance review and approval of bonds or leases for capital projects is not required. (197)
10. A school corporation may hold a referendum on whether a property tax levy should be imposed because it cannot carry out its duties without additional revenue, or to replace property tax revenue lost to the circuit breaker credit. A school corporation does not need the approval of the school property tax control board or the DLGF to hold such a referendum. An added tax levy approved by referendum is not subject to the circuit breaker credit. (495-503)

Most states use referenda for capital projects; until now, Indiana has not. Larger projects are subject to referenda if 100 or more voters or property owners sign a petition requesting one. If passed, the added debt service taxes are outside the circuit breaker limits. Smaller projects subject to the petition-remonstrance process are within the circuit breaker limits. School corporations can submit additions to their budgets to a referendum. If passed, the added taxes are outside the circuit breaker limits.

Township Assessors and Assessment Administration

1. The county assessor will take over the property assessment duties of elected township assessors in townships with fewer than 15,000 real property parcels, and in townships in which there is a trustee-assessor, on July 1, 2008. The law provides procedures for the transfer of employees, property, funds and records from the townships to the county assessor, and for the adjustment of tax rates. Elected township assessors may remain in office until their terms expire. Their duties will be to assist the county assessor. (86, 710, 829-835)
2. A referendum will be held in November 2008 in townships with 15,000 or more real property parcels to decide whether to transfer the duties of the elected township assessor to the county assessor. (693-698, 710, 832, 834)
3. Assessor certification
 - (a) A person running for county assessor or the remaining elected township assessor positions after January 1, 2012 must be certified a level three assessor-appraiser before taking office. (2, 3)
 - (c) Employees of the county assessor's office who perform real property assessing duties must be certified at the same level as the county assessor after June 30, 2009. (699)
 - (b) Employees of a property assessment contractor must be certified a level two assessor-appraiser. (275)
4. Allows county assessors and township assessors who fail to perform their duties to be removed from office. (81)
5. Amends the procedure for review by the county property tax assessment board of appeals. (137)

Most states base their assessment administration with the counties. Until now, Indiana has based assessment administration with townships and counties. HEA1001 transfers the assessing duties of the township-trustees to the county assessor. It eliminates the office of elected township assessors in townships with fewer than 15,000 real property parcels, and transfers their duties to the county assessor. Elected township assessors in bigger townships will face a referendum in November 2008 to decide whether their positions will continue.

Review of Taxes, Budgets and Capital Projects

1. Abolishes the county boards of tax and capital projects review, which were to be established by 2009. (801; repeals 6-1.1-29.5)
2. Non-school taxing units shall file the proposed tax rates, levies and budgets for the following budget year with the county council, at least fifteen days before rates are fixed and budgets adopted. The county council will make a nonbinding recommendation about the tax rates, levies and budgets. (148)
3. The applicable county, city or town must approve bonds or leases payable from property taxes for taxing units with a governing body that does not consist of a majority of officials elected to that body. The same county, city or town must approve budgets of such units that increase more than the maximum levy growth percentage. (163, 164)

These provisions may have been inspired by the Local Government Reform Commission recommendations, made in December 2007. Instead of the tax and capital projects review boards, a new layer of government that was to be established in 2009, the county, city and town councils are given review duties for the capital projects of jurisdictions government by unelected boards. In addition, a new step is added to the budget process. Non-school units will submit their proposed budgets, levies and tax rates to the county council before there are final. The council will make a non-binding recommendation. This new step could be especially useful in counties with substantial circuit breaker credits.