STATE OF INDIANA	)	IN THE MARION SUPERIOR COURT
	) SS:	CIVIL DIVISION NUMBER FIVE
COUNTY OF MARION	)	CAUSE NO. 49D05-2307-PL-028939

THE CITY OF CARMEL, INDIANA,

Plaintiff,

v.

COMMISSIONER OF INDIANA DEPARTMENT OF REVENUE; COMMISSIONER OF DEPARTMENT OF LOCAL GOVERNMENT FINANCE; and THE AUDITOR OF THE STATE OF INDIANA,

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

I. Procedural History

On July 24, 2023, the Plaintiff, the City of Carmel, Indiana ("Carmel"), filed its Complaint for Declaratory Relief against Defendants, Commissioner of the Indiana Department of Revenue ("DOR"), Commissioner of the Department of Local Governmental Finance ("DLGF"), and the Auditor of the State of Indiana ("Auditor"). Carmel named each of the Defendants in this lawsuit because they have a role in carrying out the collection, allocation, and distribution of local income taxes to civil taxing units (e.g., municipalities like Carmel) pursuant to Ind. Code § 6-3.6-6 generally, and specifically with respect to Ind. Code § 6-3.6-11-9. By way of its lawsuit, Carmel seeks a legal declaration from the Court that Ind. Code § 6-3.6-11-9, as amended by 2023 House Enrolled Act ("HEA") 1454, violates the Indiana Constitution's prohibition on special legislation pursuant to Article IV, Section 23. This section of Indiana's Constitution requires the Indiana legislature to enact laws that are general and uniform

throughout the State so long as a general law can be made applicable to the given circumstances. After an extension of time to respond, the Defendants answered the Complaint on September 20, 2023.

On October 13, 2023, Carmel filed its Motion for Preliminary Injunction to enjoin the Defendants from distributing local income-tax revenue ("LIT Revenue") in accordance with Ind. Code § 6-3.6-11-9 and instead distribute the LIT Revenue under a general formula. Carmel also sought to consolidate the hearing on the preliminary injunction with a trial on the merits pursuant to Ind. Trial Rule 65(A)(2). On October 30, 2023, the Court issued an Order Approving Joint Proposed Case-Management Schedule which included an entry that a preliminary hearing would be consolidated with the final hearing on the merits. The Court set a hearing on the preliminary injunction and final hearing on the merits of the complaint on January 16, 2024.

On November 27, 2023, the Defendants filed their Response to Carmel's Motion for Preliminary Injunction, and Carmel followed with its Reply in Support of its Motion for Preliminary Injunction filed on December 4, 2023. On January 5, 2024, the Parties filed a Joint Stipulation and Request to Convert Final Hearing and Trial on Merits to Oral Argument. On January 8, 2024, the Court granted the joint stipulation and request and accepted stipulated facts and evidence to be considered as part of the Court's findings and conclusions. On January 10, 2024, the parties concluded the submission of evidentiary materials by filing an omitted exhibit in the form of a transcript of the November 6, 2023 deposition of Curt Coonrod.

The Court convened the hearing on January 16, 2024 on the Motions for Preliminary and Permanent Injunction and Complaint for Declaratory Judgment. Because of the stipulations the Court previously accepted, the Parties merely had to submit final arguments at the hearing. At the conclusion of the hearing, the Court took judicial notice of the major highways in the State of

Indiana per Google maps. The Court also ordered the parties to submit Proposed Findings of Fact, Conclusions of Law and Order by January 30, 2024, a deadline with which the parties complied. After having reviewed the pleadings, motions and submissions of and hearing arguments from the parties, the Court now issues the following Findings of Fact, Conclusions of Law and Order pursuant to Ind. Trial Rules 52 and 65(D):

II. Findings of Fact

A. Dispute Over LIT Distribution Between Carmel and Fishers

1. The Indiana Department of Revenue collects LIT Revenue from taxpayers in all 92 Indiana counties under a statutory scheme generally set out in Ind. Code ch. 6-3.6-6.

2. The State Comptroller (formerly the State Auditor) then distributes each county's LIT Revenue as a lump sum.

3. Every county except for Marion and Lake must then distribute its LIT Revenue to the civil taxing units within the county through certified shares (the "LIT Distribution"), which are calculated under a specific statutory formula—the General Formula—that considers each community's property-tax levy and the amount of LIT distributed the previous year. *See*, Ind. Code § 6-3.6-6-12.

4. Under the General Formula, LIT Distribution is heavily dependent upon the amount cities have invested in their infrastructure rather than a simple correlate of their population. The legislature attempted to incentivize infrastructure investment when it adopted the General Formula.

5. The DLGF certifies taxing units' shares of LIT Revenue under the General Formula.

6. "Certified Shares" refer to the amount of LIT Revenue allocated for distribution under Ind. Code ch. 6-3.6-6. *See,* Ind. Code § 6-3.6-2-6.

7. "Civil taxing units" include all local governmental entities with "the power to impose ad valorem property taxes" except school corporations. *See,* Ind. Code § 6-3.6-2-7.

8. Ind. Code § 6-3.6-6-12 applies with near-uniformity across the State and sets out the General Formula for distributing LIT revenues to the civil taxing units, including cities and towns, within a given county.

9. The General Formula governed LIT Distributions to Carmel and Fishers for decades.

10. However, in 2020, the Indiana General Assembly passed House Enrolled Act 1113, codified at Indiana Code § 6-3.6-11-9, which provided that the amount of local income tax shares distributed to the City of Carmel may increase by no more than two and a half percent each year from 2020 through 2023. *See*, Ind. Code § 6-3.6-11-9, 2020 Ind. Legis. Serv. P.L. 159-2020 (HEA 1113).

11. HEA 1113 took effect on July 1, 2020. *See*, P.L. 159-2020, § 55.

12. The Act caps the amount Carmel can receive under the General Formula and gives everything above that cap to Fishers ("Fishers Transfer"). Carmel is the lone city in Indiana whose distributions under the General Formula are capped.

13. During the fiscal years of 2021, 2022, and 2023, Fishers received $16.7 million that would have gone to Carmel under the General Formula.

14. There is no indication that Carmel ever sought to enjoin LIT Distribution to Fishers of the funds above the cap to which Carmel would have been entitled under the General Fund for the fiscal years of 2021, 2022 and 2023 until Carmel filed suit on July 24, 2023.

15. In 2023, the Indiana General Assembly passed House Enrolled Act 1454, which amended Ind. Code § 6-3.6-11-9 by extending the provisional cap and allocation of Carmel's certified shares distribution through 2026. *See*, 2023 Ind. Legis. Serv. P.L. 236-2023 (HEA 1454).

16. House Enrolled Act 1454 also increased the provisional cap on the increase of Carmel's certified shares from two and a half percent annually to three percent annually in years 2024 and 2025.

17. HEA 1454 took effect on July 1, 2023. *See*, P.L. 236-20203, § 82.

18. Carmel filed its Complaint for Declaratory Judgment 23 days after HEA 1454 went into effect.

19. Before the statute sunsets, it is projected that Fishers will receive another $39.2 million that would otherwise have gone to Carmel under the General Formula. *See*, Ind. Legis. Servs. Agency, Fiscal Impact Statement for HEA 1454 (2023), p. 15.

20. Neither HEA 1113 nor HEA 1454 contained any description of unique characteristics that justifies special legislation that takes LIT Revenue from Carmel and gives it to Fishers.

B. Interstate 69 Corridor

21. Interstate 69 ("I-69") is an interstate highway traversing Indiana from its border with Kentucky near Evansville to its border with Michigan north of Angola.

22. Fishers and Carmel are both cities in Hamilton County. Fishers is located along I-69. Carmel is located along two major federal highways: U.S. 31 and the I-465 loop circulating traffic from the various highways and roads coming into Indianapolis.

23. Not only does I-69 pass through Fishers, it also passes through many other Indiana cities and towns – including Evansville, Bloomington, Martinsville, Noblesville, Pendleton, Anderson, and Fort Wayne.

24. The state's investment in I-69's extension from Evansville to Indianapolis is likely to exceed $2 billion.

25. Fishers is not located on the extended portion of I-69. However, Evansville, Bloomington and Martinsville are.

26. The Defendants contends that Fishers is a city positioned for unique economic development opportunities due to its location along the I-69 corridor, proximity to the state capitol of Indianapolis, and recent rapid population growth. The Defendants further contend that Carmel, despite not having direct access to the I-69 corridor, will benefit from economic development opportunities that are realized in Fishers.

27. However, I-69 north of Castleton has passed through the City of Fishers years before the I-69 project from Evansville to Indiana began construction in 2004 and are not related to each other. More importantly, the record is devoid of any evidence of any development opportunity tied to I-69 – in Fishers or anywhere else.

28. Other interstate highways traversing the state include I-65, I-70, I-74, I-90, I-94, U.S. 20, U.S. 30, U.S. 31, U.S. 36, U.S. 40, and U.S. 41.

29. Those highways pass through various Indiana cities and towns, including but not limited to Greenwood (I-65 and U.S. 31), Plainfield (I-70 and U.S. 40), Westfield (U.S. 31), Brownsburg (I-74), Avon (U.S. 36), Whitestown (I-65), Carmel (U.S. 31), Lebanon (I-65), Terre Haute (I-70 and U.S. 41), Elkhart (I-90 and U.S. 20), South Bend (I-90, U.S. 20, and U.S. 31),

Columbus (I-65 and U.S. 31), New Albany (I-64), Kokomo (U.S. 31), and Franklin (I-65 and U.S. 31).

30. Fishers and Carmel have both seen steady population growth between 2010 and 2020 according to the stipulated Census data. As depicted below, that growth is not unique relative to other Indiana cities and towns, relative to fellow Indianapolis suburbs located on or near federal highways, or relative to other cities in Hamilton County located on or near federal highways.

Locality	Population Growth
Town of Whitestown	255.01%
Town of Bargersville	138.23%
Town of Zionsville	116.12%
Town of Huntertown	90.04%
Town of McCordsville	77.26%
Town of Avon	72.54%
City of Westfield	54.35%
Town of Sellersburg	51.93%
City of West Lafayette	50.68%
Town of Brownsburg	36.12%
City of Noblesville	33.93%
City of Kokomo	31.09%
City of Fishers	28.89%
City of Greenwood	28.20%
City of Carmel	25.97%
Town of Plainfield	25.31%
City of Seymour	23.23%
Town of Yorktown	22.79%
City of Columbus	14.55%
City of Greenfield	14.01%
City of Jeffersonville	10.00%

III. Conclusion of Law

A. Article 4, Section 23

31. The Court has jurisdiction to hear this matter pursuant to Ind. Code § 33-29-1-1.5.

32. Venue is proper under Ind. Trial Rule 75.

33. Declaratory relief is authorized by Ind. Code § 34-14-1-1 *et seq*., and Ind. Trial Rule 57.

34. Article IV, Section 23 of the Indiana Constitution provides that "where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State." Thus, Article IV, Section 23 prohibits "special" laws in situations where a "general" law can be made applicable.

35. Article IV, Section 23 was adopted into the 1851 Indiana Constitution to curb the legislature's propensity for passing statutes from issues as minute of individual divorces to legislation regarding particular streams, roads, streets, and alleys. In fact, the practice was so bad that between 1849 and 1850, over 90% of the laws passed by the legislature were special legislation of this sort. *Ind. Gaming Comm'n v. Moseley*, 643 N.E.2d 296, 299 (Ind. 1994), *citing* Frank E. Korack & Matthew E. Welsh, *Special Legislation: Another Twilight Zone*, 12 Ind. L. J. 109, 115-16 (1936).

36. At the 1851 Convention, John Petit of Tippecanoe County exclaimed concerns regarding special legislation was "the whole error—the whole incongruity—the whole oppression of our law, and almost the whole necessity of calling this Convention." *City of S. Bend v. Kimsey*, 781 N.E. 2d 683, 686 (Ind. 2003) *citing* 2 Reports of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana 1771 (1850).

37. There are two special legislation provisions in the Indiana Constitution; Article 4, Section 22 and Section 23. Carmel has not argued that the challenged legislation violates Section 22. Article 4, Section 23, provides, "In all the cases enumerated in the preceding section and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State." Challenges under Section 23 involve a two-step analysis. First, the court asks whether the challenged legislation is special legislation. *City of Hammond v. Herman & Kittle Props., Inc.*, 119 N.E.3d 70, 82 (Ind. 2019). Second, if the law is special, the court asks whether the law is nonetheless constitutionally permissible. *Id*.

38. "A statute is 'general' if it applies to all persons or places of a specified class throughout the state. A statute is 'special' if it pertains to and affects a particular case, person, place, or thing, as opposed to the general public." *Mun. City of S. Bend v. Kimsey*, 781 N.E.2d 683, 689 (Ind. 2003).

39. The Defendants concede that Ind. Code § 6-3.6-11-9 is special legislation. Because the special legislation that Carmel is challenging is a type of constitutional challenge, there is an overarching presumption that the statute is constitutional. *Herman & Kittle Props., Inc.*, 119 N.E.3d at 84, *see also*, *State v. Buncich*, 51 N.E. 3d 136, 141 (Ind. 2016). All doubts are resolved in favor of the legislature and if there are multiple interpretations, the Court must choose the path that upholds the statute. *Id*. *citing Baldwin v. Reagan*, 715 N.E. 2d 332, 338 (Ind. 1999).

40. Generally, the party seeking to strike down a statute bears the burden of proof which can be heavy where the challenge is to the statute on its face. *Buncich*, 51 N.E. 3d at 141. However, because the statute here is special legislation, the Defendants carry the burden "to show that a general law can't be made applicable." *See*, *Herman & Kittle Props., Inc.*, 119

N.E.3d at 84. To do that, the Defendants as the proponents of the legislation are required to clear a low bar by establishing a link between the class's unique characteristics and the legislative fix; namely, taking roughly $56 million from Carmel to give to Fishers for the apparent purpose of fostering *unique* economic development because of Fishers proximity to I-69. *See*, *Id.* If the Defendants overcome their initial burden, but the case poses a question of degree – i.e., the characteristics used to justify the special law are common to the specified class and to those outside of the class – then the opponent of the legislation must show why the specified class's characteristics are not defining enough to justify the special legislation. *Id*. at 84-85. If Carmel carries this burden, it demonstrates that the law's proponent has failed to justify the special treatment. *Id*. at 85.

41. The special law at issue here has two key parts. First, it directs additional LIT Revenue to Fishers on top of the revenue it already receives under the General Formula. Second, it funds that special spending in Fishers from a single source. Carmel bears 100% of the burden because the Fishers Transfer caps Carmel's (and only Carmel's) LIT Distribution under the General Formula and gives Fishers everything over that cap—a total transfer of approximately $56 million. So, this special law not only treats Carmel and Fishers differently than the rest of Indiana, it also treats them differently than each other. That sort of special treatment is unconstitutional unless some characteristic unique to Carmel and Fishers justifies it.

42. The purpose of Article 4, Section 23 "is to prevent the legislature from providing a benefit to or imposing a burden on one locality and not others, as allowing such practices would encourage logrolling and result in an irregular system of laws." *Buncich*, 51 N.E. 3d at 141. Here, the Fishers Transfer is for Fishers to spend without any requirements that it spends

the additional funds on economic development along I-69. Furthermore, the sole source for funding of the Fishers Transfer is Carmel.

43. The Defendants suggests that the $56 million Fishers Transfer is not actually taking from Carmel. The Court disagrees: but for this special law, the money that is being transferred to Fishers would belong to Carmel under the statutory General Formula.

44. As proponents of the special legislation, the Defendants have not met their burden that a general law could not have been made applicable to achieve the purposes of creating a special fund in Fishers for unique economic development along I-69. For example, it could appropriate money from the State's general fund. Or it could impose a *statewide* cap on LIT Distributions under the General Formula to create a special fund for spending in Fishers. Those sorts of general laws would require every community in Indiana to equally bear the burden of whatever special spending the legislature might deem necessary in Fishers. And they would ensure that every legislator voting on such a bill has an interest in the outcome, for every part of the State is interested in how statewide funding gets spent.

45. The General Assembly instead funded its special spending in Fishers from a single source—money that the State's general laws direct to Carmel. It could do that only if some unique characteristic of Carmel's justifies that particular form of differential treatment—Carmel funding economic development only in Fishers in the amount of $56 million. The Defendants sought to make that showing by arguing that Carmel borders Fishers, is in the same county, and therefore purportedly benefits from development in Fishers along the I-69 corridor. But there is no evidence anywhere in this record of any benefit to Carmel deriving from development on the other side of Fishers along I-69. And even if there were, that characteristic would not be unique. Another Hamilton County city, Noblesville, also borders Fishers. And Noblesville borders

Fishers on the I-69 corridor itself. Because being a city in Hamilton County bordering Fishers is not unique, it cannot justify a special law. *Cf., Mun. City of South Bend v. Kimsey*, 781 N.E.2d 683, 694 (Ind. 2003) (striking down special law where characteristic not unique to location targeted by special law), *with State v. Hoovler*, 668 N.E.2d 1229, 1235 (Ind. 1996) (upholding special law where targeted characteristic existed in one county and nowhere else in Indiana).

46. The Defendants argue that the power to tax belongs to the General Assembly. Ind. Const. Article X, Section 8. They further argue that the Indiana Tax Code contains a combination of many general and specific provisions which work together to effectuate the General Assembly's fair and efficient use of its taxing power. However, this case is not about the constitutional scrutiny of the legislature's power to tax. The issue here is about special legislation that takes roughly $56 million only from Carmel by capping LIT Funds that Carmel would have been entitled to receive under a General Formula and gives it to Fishers for the apparent purpose of fostering *unique* economic development in Fishers because of its proximity to I-69. The General Assembly's authority to tax to fund various projects throughout the State is not at issue.

47. This case is like *Kimsey*, not *Hoovler*. In *Hoovler*, Tippecanoe County faced a unique circumstance that justified special spending there: it was the only county in the state where the EPA had identified local governments as potentially responsible for a Superfund liability. *Hoovler*, 668 N.E.2d at 1232. The General Assembly authorized Tippecanoe County, and only Tippecanoe County, to increase its economic-development-tax rate to help fund that potential liability. Because a truly unique circumstance justified the particular form of differential treatment, the law was constitutional. *Id.* at 1235.

48. Because being a city in Hamilton County that borders Fishers is not unique, this case is instead like *Kimsey*. There, the General Assembly may have had genuine concerns about municipalities getting into annexation races in counties having multiple urban areas surrounded by rural land. *See Kimsey*, 781 N.E.2d at 694. But just like here, the Constitution did not permit the legislature to address its concern through a special law because the characteristic it sought to address was not unique to the location its special law targeted. *Id.*

49. Whether labeling it the Defendants' failure to carry its burden to show that a general law cannot be made applicable or calling it Carmel's successful demonstration that the specified class's characteristics are not defining enough, the Fishers Transfer violates Article 4, Section 23. *Cf. Herman & Kittle*, 119 N.E.3d at 84-85.

50. During final argument, the Defendants additionally claimed that Carmel and Fishers together create a single unique class justifying a special law because they are purportedly the only second-class cities in Indiana that border both another second-class city and a first-class city. The claim is premised on the fact Carmel and Fishers are second-class cities bordering another second-class city and a first-class city, have experienced population growth between 2010 and 2020, and sit along a major federal highway.

51. The Defendants made no evidentiary showing to confirm the factual premise underlying that claim. But even accepting the premise as true the Defendants still fail to show how these additional characteristics justify the "particular form" of differential treatment in this special law. *Cf. Herman & Kittle*, 119 N.E.3d at 83.

52. The special legislation treats Carmel and Fishers differently from the rest of the State. It also treats Carmel and Fishers differently amongst themselves. Assuming *in arguendo* that Carmel and Fishers together create a unique class, Defendants fail to establish the necessary

"link between the class's unique characteristics and the legislative fix." *Cf. Herman & Kittle*, 119 N.E.3d at 84. The fact that Carmel and Fishers as second-class cities bordering Indianapolis as a first-class city does not establish the need for Carmel's LIT funding to be capped so that funds Carmel would have been entitled to receive under a General Formula could be diverted to Fishers to foster economic development along I-69 which has passed through Fishers for decades.

53. Ind. Code § 6-3.6-11-9 is unconstitutional whether it creates two classes or one. If it establishes two special classifications (one to take from Carmel and one to give to Fishers), the Defendants offer no unique characteristics that can justify imposing a special burden on Carmel alone. If the Defendants' new argument is correct and Carmel and Fishers together constitute a single special class, the Fishers Transfer remains unconstitutional. There is no reason to give opposite treatment to two cities in the same class. Either way, the State has failed to show that any purportedly unique characteristic justifies the particular form of differential treatment.

B. Injunctive Relief

54. By way of its Complaint for Declaratory Judgment and Motion for Preliminary Injunction, Carmel seeks a ruling from the Court preliminarily and permanently enjoining further enforcement of Ind. Code § 6-3.6-11-9 and ordering the appropriate Defendant(s) to make LIT Distributions in Hamilton County under the General Formula. Carmel further requested and the Court granted a consolidated hearing that would include a final hearing on the merits of the Complaint with a hearing on the injunctive relief sought. As such, Carmel maintains the applicable burden of proof to show that the challenged statute is unconstitutional, not merely the standard for injunctive relief showing a reasonable likelihood of success on the merits by a preponderance of the evidence.

55. The grant or denial of an injunction lies within the sound discretion of the trial court and will not be overturned unless it was arbitrary or amounted to an abuse of discretion. *Ferrell v. Dunescape Beach Club Condos. Phase 1*, 751 N.E. 2d 702, 712 (Ind. Ct. App. 2001). Generally, the Court considers four factors in determining the propriety of injunctive relief: (1) whether plaintiff's remedies at law are inadequate; (2) whether the plaintiff can demonstrate a reasonable likelihood of success on the merits; (3) whether the threatened injury to the plaintiff outweighs the threatened harm a grant of relief would occasion upon the defendant; and (4) whether the public interest would be disserved by granting relief. *Id.* The difference between a preliminary and a permanent injunction is procedural. *Id*. at 712-13. A preliminary injunction is issued while an action is pending, while a permanent injunction is issued upon a final determination. *Id*. at 713.

56. Here, Carmel seeks not only an order declaring Ind. Code § 6-3.6-11-9 unconstitutional on its face, but an order permanently enjoining the Defendants from enforcing the statute. Thus, the second of the four traditional factors is slightly modified, "for the issue is not whether the plaintiff has demonstrated a reasonable likelihood of success on the merits, but whether he has in fact succeeded on the merits." *Id*., *citing Plummer v. American Inst. of Certified Public Accountants*, 97 F. 3d 220, 229 (7th Cir. 1996). Furthermore, when the act sought to be enjoined is unlawful, the plaintiff need not make a showing of irreparable harm or a balance of the hardship in his favor. *Ferrell*, 751 N.E. 2d at 713, *citing L.E. Services, Inc. v. State Lottery Com'n of Indiana*, 646 N.E. 2d 334, 349 (Ind. Ct. App. 1995), *trans. denied*. The *per se* irreparable harm rule is also applicable when the action sought to be enjoined is a statute that is unconstitutional. *See*, *Planned Parenthood v. Carter*, 854 N.E. 2d 853, 863-64 (Ind. Ct. App. 2006).

57. While injunctions typically order those to whom it is directed to refrain from certain actions, it may also compel those same individuals to take affirmative action when necessary. *Ferrell*, 751 N.E. 2d at 713.

C. Merits

58. The Parties agreed that Ind. Code § 6-3.6-11-9 is special legislation as it specifically names only the cities of Carmel and Fishers. The Court has determined that the Defendants have failed to show that a general law can't be made applicable. *Cf. Herman & Kittle Props., Inc.*, 119 N.E. 3d at 84. The Court has further determined that even if that burden was met, the Defendants have failed to prove that unique characteristics exist justifying Carmel alone to fund spending only in Fishers. Carmel has succeeded on the merits.

59. The Court need not determine whether Carmel has proven irreparable harm or a favorable balance of harms because the act challenged is unconstitutional. However, it stands to reason that Carmel continuing to be the sole source of funding for economic development only in Fishers would constitute irreparable harm. Furthermore, the harm to Carmel outweighs the harm to Defendants as the Defendants will simply certified shares and complete the LIT Distributions under the General Formula.

60. Curing the evils of special legislation was the very reason why the Constitutional Convention of 1851 was convened. The Defendants have no cognizable interest in enforcing an unconstitutional law just as Fishers has no cognizable interest in receiving LIT Funds under an unconstitutional law.

IV. Declaration and Permanent Injunction

61. For the reasons explained above, the Court hereby **DECLARES** that Indiana Code § 6-3.6-11-9 violates Article 4, Section 23 of the Indiana Constitution. The Commissioner

of the Department of Local Government Finance is hereby permanently **ENJOINED** from enforcing Indiana Code § 6-3.6-11-9. With that law enjoined, the Commissioner of the Department of Local Government Finance is hereby **ORDERED** to certify local income tax certified shares for Carmel and Fishers as though that unconstitutional law had not been enacted. Finally, the Commissioner of the Department of Revenue and the State Comptroller are hereby **ORDERED** to release Hamilton County's LIT revenues consistent with the Department of Local Government Finance's certifications made in accordance with this injunction.

62. This order resolves all issues in this matter as to all parties following a final argument on a stipulated record. It therefore operates as a final judgment under Trial Rule 58.

SO ORDERED this 18th day of March 2024.

John M. T. Chavis, II

John M. T. Chavis, II, Judge
Marion Superior Court
Civil Division Number Five

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Counsel of Record