

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1362

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 4. "Clerk" means:

- (1) clerk of the circuit court, for a county;
- (2) county auditor, for a board of county commissioners or county council;
- (3) clerk of the city-county council, for a consolidated city;
- (4) city clerk, for a second class city;
- (5) clerk-treasurer, for a third class city; ~~or~~
- (6) clerk-treasurer, for a town; **or**
- (7) **chief executive officer of a political subdivision not described in subdivisions (1) through (6).**

SECTION 2. IC 36-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 6. "Fiscal body" means:

- (1) county council, for a county not having a consolidated city;
- (2) city-county council, for a consolidated city or county having a consolidated city;

(3) common council, for a city other than a consolidated city;

(4) town council, for a town;

(5) township board, for a township; ~~or~~

(6) governing body or budget approval body, for any other political subdivision **that has a governing body or budget approval body; or**

(7) **chief executive officer of any other political subdivision that does not have a governing body or budget approval body.**

SECTION 3. IC 36-1-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 9. "Legislative body" means **the**:

- (1) board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1;
- (2) county council, for a county subject to IC 36-2-3.5;

- (3) city-county council, for a consolidated city or county having a consolidated city;
- (4) common council, for a city other than a consolidated city;
- (5) town council, for a town; ~~or~~
- (6) township board, for a township;
- (7) governing body of any other political subdivision that has a governing body; or
- (8) chief executive officer of any other political subdivision that does not have a governing body.

SECTION 4. IC 36-1.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 1.5. GOVERNMENT MODERNIZATION

Chapter 1. General Provisions

Sec. 1. The purpose of this article is to do the following:

(1) Grant broad powers to enable political subdivisions to operate more efficiently by eliminating restrictions under existing law that:

- (A) impede the economy of operation of;
- (B) interfere with the ease of administration of;
- (C) inhibit cooperation among; and
- (D) thwart better government by;

political subdivisions.

(2) Encourage efficiency by and cooperation among political subdivisions to:

- (A) reduce reliance on property taxes; and
- (B) enhance the ability of political subdivisions to provide

critical and necessary services.

(3) Strengthen the financial condition of state government.

Sec. 2. This article contains full and complete authority for the following:

- (1) Reorganization of political subdivisions.
- (2) Exercise of governmental functions under a cooperative agreement under this article.
- (3) Transfer of responsibilities between offices and officers under this article.

Sec. 3. Except as provided in this article, no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a political subdivision or any officer, department, agency, or instrumentality of the state or a political subdivision is required for political subdivisions to:

- (1) reorganize;
- (2) enter into or exercise governmental functions under a cooperative agreement; or
- (3) transfer responsibilities between offices and officers;

under this article.

Sec. 4. A political subdivision may exercise the powers granted under this article to reorganize or enter into cooperative agreements without complying with the provisions of any other law, statute, or rule.

Sec. 5. This article shall be liberally construed to effect the purposes of this article.

Sec. 6. Except as otherwise specifically provided by law, to the extent the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling, and compliance with this article shall be treated as compliance with the conflicting law.

Sec. 7. This article does not prohibit the:

- (1) reorganization of one (1) or more political subdivisions;
 - (2) exercise of governmental functions under an interlocal cooperation agreement or a cooperative agreement; or
 - (3) transfer of responsibilities between offices and officers;
- under another law that is not included in this article.

Sec. 8. More than one (1) resolution permitted under this article may be consolidated into a combined resolution.

Sec. 9. Political subdivisions and reorganization committees acting under this article are subject to

IC 5-14-1.5 (open door law) and IC 5-14-3 (public records law).

Chapter 2. Definitions

Sec. 1. Except as provided in section 4 of this chapter, the definitions in IC 3-5-2 and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Plan of reorganization" refers to a plan of reorganization approved by the legislative body of each reorganizing political subdivision under this article.

Sec. 4. "Political subdivision" has the meaning set forth in IC 36-1-2, except that the term does not include a local hospital authority or corporation.

Sec. 5. "Reorganization" means a change in the structure or administration of a political subdivision described in IC 36-1.5-4-3 and IC 36-1.5-4-4.

Sec. 6. "Reorganization committee" refers to a committee established under this article to assist reorganizing political subdivisions with developing a plan of reorganization.

Sec. 7. "Reorganized political subdivision" means the political subdivision that is the successor to the reorganizing political subdivisions participating in a reorganization.

Sec. 8. "Reorganizing political subdivision" refers to a political subdivision in which:

- (1) a resolution has been adopted under IC 36-1.5-4-10; or
- (2) a petition has been filed under IC 36-1.5-4-11.

Chapter 3. Adjustment of Maximum Permissible Levies, Tax Rates, and Budgets

Sec. 1. A certified copy of an ordinance or a resolution, including any incorporated agreement, that is adopted under this article must be submitted to the department of local government finance.

Sec. 2. The department of local government finance may take an action under this chapter in the manner prescribed by the department of local government finance in its rules adopted under IC 4-22-2.

Sec. 3. A political subdivision may petition for judicial review of a final determination of the department of local government finance under this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department of local government finance enters its order under this chapter.

Sec. 4. Subject to this chapter, the department of local government finance shall adjust the maximum permissible

property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization under this article as the department of local government finance determines necessary to do the following:

- (1) Eliminate double taxation by different political subdivisions for services or goods provided under this article.
- (2) Eliminate any excess by which the amount of property taxes imposed by a political subdivision exceeds the amount necessary to pay for services or goods provided under this article.
- (3) Restore taxing powers of a political subdivision after the termination of a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.
- (4) Restore taxing powers of a political subdivision after the withdrawal of a party from a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

Sec. 5. The department shall establish a formula for adjusting maximum permissible property tax levies, maximum permissible property tax rates, and budgets under this chapter that permits a political subdivision (or a successor political subdivision) that realizes a:

- (1) savings to its taxpayers; or
 - (2) reduction in the reasonably foreseeable expenses that would otherwise be incurred by its taxpayers;
- through a reorganization under this article to continue to levy part of the realized savings or reduction.

The adjustment under this section may not exceed fifty percent (50%) of the savings or reduction realized in the first full year of operation after the reorganization is implemented, as determined by the department of local government finance.

Chapter 4. Reorganization by Referendum

Sec. 1. (a) Any of the following may reorganize under this chapter:

(1) Two (2) or more counties. A county reorganizing under this subdivision must be adjacent to at least one (1) other county participating in the reorganization.

(2) Two (2) or more townships located entirely within the same county. A township reorganizing under this subdivision must be adjacent to at least one (1) other township

participating in the reorganization.

(3) Two (2) or more municipalities. A municipality reorganizing under this subdivision must be adjacent to at least one (1) other municipality participating in the reorganization.

(4) Two (2) or more school corporations. A school corporation reorganizing under this subdivision must be adjacent to at least one (1) other school corporation participating in the reorganization.

(5) Two (2) or more municipal corporations, other than a unit or a school corporation, that have substantially equivalent powers. A municipal corporation reorganizing under this subdivision must be adjacent to at least one (1) other municipal corporation participating in the reorganization.

(6) Two (2) or more special taxing districts that are adjacent to at least one (1) other special taxing district participating in the reorganization.

(7) A township and a municipality that is located in any part of the same township.

(8) A county and one (1) or more townships that are located in the county.

(9) A municipality and a county that does not contain a consolidated city.

(10) A school corporation and a county or municipality in which a majority of the students of the school corporation have legal settlement (as defined by IC 20-18-2-11).

(11) A municipal corporation, other than a unit or a school corporation, and a county or municipality in which a majority of the population of the municipal corporation resides.

(b) If a political subdivision reorganizes under this article with one (1) or more other political subdivisions:

(1) any political subdivisions that did not participate in the public question on the reorganization are not reorganized under this article;

(2) the reorganization affects only those political subdivisions in which the reorganization is approved as specified in this article; and

(3) the reorganization does not affect the rights, powers, and duties of any political subdivisions in the county in which the reorganization is not approved as specified in this article.

Sec. 2. For purposes of this chapter, two (2) political

subdivisions may not be treated as adjacent if the political subdivisions are connected by a strip of land that is less than one hundred fifty (150) feet wide.

Sec. 3. Political subdivisions described in section 1 of this chapter may participate under this chapter in any of the following types of reorganization:

(1) Consolidation of the participating political subdivisions into a single new political subdivision.

(2) Consolidation of the participating political subdivisions into one (1) of the participating political subdivisions.

Sec. 4. As part of a reorganization in a finally approved plan of reorganization, one (1) or more of the reorganizing political subdivisions or the reorganized political subdivision may do the following:

(1) Adjust any of its boundaries.

(2) Establish a joint service area with another political subdivision.

(3) Transfer the functions of an office to another office.

(4) Provide for a legislative body, an executive, or a fiscal body of the reorganized political subdivision to exercise the powers of a legislative body, an executive, or a fiscal body of a reorganizing

political subdivision.

(5) Change the name of the political subdivision or select a new name.

Sec. 5. (a) Except as provided in subsection (b), a reorganization approved under this chapter takes effect when all of the following have occurred:

(1) The later of:

(A) the date that a copy of a joint certification from the county election board in each county in which reorganizing political subdivisions are located that indicates that:

(i) the reorganization has been approved by the voters of each reorganizing political subdivision; or

(ii) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization has been approved as set forth in section 32(b) of this chapter; is recorded as required by section 31 of this chapter; or

(B) the date specified in the finally adopted plan of reorganization.

(2) The appointed or elected officers of the reorganized political subdivision are elected (as prescribed by section 36

of this chapter) or appointed and qualified, if:

(A) the reorganized political subdivision is a new political subdivision and reorganizing political subdivisions are not being consolidated into one (1) of the reorganizing political subdivisions;

(B) the reorganized political subdivision will have different boundaries than any of the reorganizing political subdivisions;

(C) the reorganized political subdivision will have different appointment or election districts than any of the reorganizing political subdivisions; or

(D) the finally adopted plan of reorganization requires new appointed or elected officers before the reorganization becomes effective.

(b) A reorganization approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A consolidation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

Sec. 6. When a reorganization under this chapter is effective:

(1) all of the participating political subdivisions, except the reorganized political subdivision, cease to exist;

(2) unless the plan of reorganization provides for the continuation of the term of office, the term of each of the elected offices of each of the reorganizing political subdivisions is terminated;

(3) if the plan of reorganization transfers the responsibilities of any office to another office, the office from which the responsibilities were transferred is abolished;

(4) the executives, legislative bodies, and fiscal bodies of the reorganizing political subdivisions (other than any reorganizing political subdivision that is treated under the plan of reorganization as the successor reorganized political subdivision) are abolished, and the responsibilities of the executives, legislative bodies, and fiscal bodies are transferred to the executive, legislative body, and fiscal body of the reorganized political subdivision; and

(5) the property and liabilities of the reorganizing political subdivisions become the property and liabilities of the reorganized political subdivision, subject to section 40 of this

chapter.

Sec. 7. In the year before the year in which the participating political subdivisions are reorganized under this chapter:

(1) the fiscal bodies of the reorganizing political subdivisions shall, in the manner provided by IC 6-1.1-17, adopt tax levies, tax rates, and a budget for the reorganized political subdivision either through the adoption of substantially identical resolutions adopted by each of the fiscal bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the fiscal bodies on

which the members of each of the fiscal bodies are represented; and

(2) if the reorganized political subdivision will have elected offices and different election districts than any of the reorganizing political subdivisions, the legislative bodies of the reorganizing political subdivisions shall establish the election districts either through the adoption of substantially identical resolutions adopted by each of the legislative bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the legislative bodies on which the members of each of the legislative bodies are represented.

Sec. 8. The department of local government finance may prescribe forms for petitions, resolutions, certifications, and other writings required under this chapter. A petition, resolution, certification, or other writing related to a reorganization must be substantially in the form prescribed by the department of local government finance.

Sec. 9. A reorganization may be initiated by:

- (1) adopting a resolution under section 10 of this chapter; or
- (2) filing a petition under section 11 of this chapter.

Sec. 10. (a) The legislative body of a political subdivision may initiate a proposed reorganization under this chapter by adopting a resolution that:

- (1) proposes a reorganization;
- (2) names the political subdivisions that would be reorganized in the proposed reorganization; and
- (3) only in the case of a proposed reorganization described in section 1(a)(9) of this chapter, states whether the vote on the public question regarding the reorganization shall be:
 - (A) conducted on a countywide basis under section 30(b) of

this chapter, without a rejection threshold; or

(B) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(b) The clerk of the political subdivision adopting the resolution shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 11. (a) The voters of a political subdivision may initiate a proposed reorganization by filing a written petition, substantially in the form prescribed by the department, with the clerk of the political subdivision that:

- (1) proposes a reorganization; and
- (2) names the political subdivisions that would be reorganized in the proposed reorganization.

(b) If the written petition is signed by at least five percent (5%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election, the clerk of the political subdivision shall certify the petition to the legislative body of the political subdivision.

Sec. 12. (a) If a petition is certified to the legislative body of a political subdivision under section 11 of this chapter, the legislative body shall conduct a public hearing on the proposed reorganization not sooner than five (5) days after publishing a notice of the public hearing under IC 5-3-1. Not more than thirty (30) days after the conclusion of the public hearing the legislative body shall adopt a resolution, substantially in the form prescribed by the department of local government finance, to do any of the following:

- (1) Decline to participate in the proposed reorganization.
- (2) Propose a reorganization with the political subdivisions named in the petition.
- (3) Propose a reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in the petition.

(b) In the case of a resolution adopted under this section proposing a reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of

this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 13. (a) The legislative body of a political subdivision that receives a certified resolution under section 10 or 12 of this chapter may do any of the following:

(1) Adopt a resolution declining to participate in a proposed reorganization.

(2) Adopt a substantially identical resolution proposing to participate in a proposed reorganization with the political subdivisions named in a resolution certified to the political subdivision.

(3) Adopt a resolution proposing to participate in a proposed reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in a resolution certified to the political subdivision.

(b) In the case of a resolution adopted under this section proposing to participate in a proposed reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 14. The legislative body of a political subdivision may revise a resolution certified under section 10, 12, or 13 of this chapter by adding or deleting proposed parties to the reorganization until all of the political subdivisions named in the resolution have adopted substantially identical reorganization resolutions.

Sec. 15. Not later than thirty (30) days after the clerk of the last political subdivision to adopt a reorganization resolution under this chapter has certified the substantially identical resolution to all of the political subdivisions named in the resolution, the reorganizing political subdivisions shall appoint the number of individuals

specified in section 16 of this chapter to serve on a reorganization committee to develop a plan of reorganization for the reorganizing political subdivisions.

Sec. 16. (a) Members shall be appointed to a reorganization committee as follows:

(1) In accordance with an agreement adopted by the reorganizing political subdivisions. An agreement under this subdivision must provide that not more than a simple majority of the members appointed by each political subdivision may be members of the same political party.

(2) If an agreement does not provide for the membership of a reorganization committee under this chapter, three (3) members shall be appointed by the executive of each political subdivision participating in the reorganization. Not more than two (2) of the members appointed by an executive of a political subdivision may be members of the same political party.

(b) The members of a reorganization committee serve at the pleasure of the appointing authority. The reorganization committee shall select a chairperson and any other officers that the reorganization committee determines necessary from the members of the reorganization committee.

(c) The members of a reorganization committee serve without compensation. The members, however, are entitled to reimbursement from the reorganizing political subdivisions for the necessary expenses incurred in the performance of their duties.

(d) The reorganizing political subdivisions shall provide necessary office space, supplies, and staff to the reorganization committee. The reorganizing political subdivisions may employ attorneys, accountants, consultants, and other professionals for the reorganization committee.

(e) Except as otherwise provided in an agreement adopted by the reorganizing political subdivisions, claims for expenditures for the reorganization committee shall be made to the fiscal officer for the

reorganizing political subdivision with the largest population. The fiscal officer shall pay the necessary expenditures and obtain reimbursement from the reorganizing political subdivisions:

- (1) in accordance with an agreement adopted by the reorganizing political subdivisions; or
- (2) in the absence of an agreement, in proportion to the population of each reorganizing political subdivision.

Sec. 17. A reorganization committee may do the following:

- (1) Adopt procedures governing the internal management of the reorganization committee.
- (2) Conduct public hearings on the plan of reorganization as the reorganization committee determines necessary or appropriate.
- (3) Review the books and records of any reorganizing political subdivision.
- (4) Administer oaths.
- (5) Issue and enforce subpoenas and discovery orders under IC 4-21.5.

Sec. 18. (a) A reorganization committee shall prepare a comprehensive plan of reorganization for the reorganizing political subdivisions. The plan of reorganization governs the actions, duties, and powers of the reorganized political subdivision that are not specified by law.

(b) The plan of reorganization must include at least the following:

- (1) The name and a description of the reorganized political subdivision that will succeed the reorganizing political subdivisions.
- (2) A description of the boundaries of the reorganized political subdivision.
- (3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.
- (4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.
- (5) A description of the services to be offered by the reorganized political subdivision and the service areas in which the services will be offered.
- (6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.
- (7) Any other matter that the:

(A) reorganization committee determines to be necessary or appropriate; or

(B) legislative bodies of the reorganizing political subdivisions require the reorganization committee;
to include in the plan of reorganization.

(8) In the case of a reorganization described in section 1(a)(9) of this chapter, if the legislative bodies of the reorganizing political subdivisions have specified that the vote on the public question regarding the reorganization shall be conducted on a countywide basis under section 30(b) of this chapter with a rejection threshold, the reorganization committee shall include in the reorganization plan a rejection threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization.

(9) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(c) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization

committee may not change the decision of the legislative bodies of the reorganizing political subdivisions regarding whether the vote on the public question regarding the reorganization shall be conducted on a countywide basis without a rejection threshold or with a rejection threshold.

(d) Upon completion of the plan of reorganization, the reorganization committee shall present the plan of reorganization to the legislative body of each of the reorganizing political subdivisions for adoption. The initial plan of reorganization must be submitted to the legislative body of each of the reorganizing political subdivisions not later than one (1) year after the clerk of the last political subdivision that adopts a reorganization resolution under this chapter has certified the resolution to all of the political

subdivisions named in the resolution.

Sec. 19. The legislative body of each of the reorganizing political subdivisions shall provide for the following:

(1) Consideration of a plan of reorganization presented by a reorganization committee in the form of a resolution incorporating the plan of reorganization in full or by reference.

(2) Reading of the resolution incorporating the plan of reorganization in at least two (2) separate meetings of the legislative body of the political subdivision.

(3) Conducting a public hearing on the plan of reorganization:

(A) not sooner than five (5) days after notice of the public hearing is published under IC 5-3-1; and

(B) before the legislative body takes final action on the resolution to adopt the plan of reorganization.

Sec. 20. At a public hearing on a plan of reorganization conducted under section 19 of this chapter, or in a public meeting held not more than thirty (30) days after the public hearing concludes, a legislative body of a reorganizing political subdivision shall do one (1) of the following:

(1) Adopt the plan of reorganization as presented to the legislative body.

(2) Adopt the plan of reorganization with modifications.

(3) Reject the plan of reorganization and order a reorganization committee to submit a new plan of reorganization within thirty (30) days after the legislative body rejects the plan of reorganization.

Sec. 21. Any modifications in a plan of reorganization that are adopted by a legislative body of a reorganizing political subdivision must be adopted by the legislative body of each of the reorganizing political subdivisions before the modifications are effective.

Sec. 22. The legislative body of each reorganizing political subdivision shall take any of the actions described in section 20 of this chapter on a revised plan of reorganization submitted by a reorganization committee and each resolution modifying a plan of reorganization or revised plan of reorganization in the same manner as the legislative body may take action on the initially submitted plan of reorganization.

Sec. 23. The legislative body of a reorganizing political subdivision shall certify the legislative body's final action on a plan of reorganization or revised plan of reorganization, as modified by

the legislative body, in the manner prescribed by the department of local government finance, to the following:

(1) The chair of the reorganization committee.

(2) The clerk of each reorganizing political subdivision.

(3) The county fiscal officer of each county in which a reorganizing political subdivision is located.

(4) The county recorder of each county in which a reorganizing political subdivision is located.

Sec. 23.5. The following apply if the legislative bodies of all political subdivisions that have been presented with a plan of reorganization under section 18(d) of this chapter have not adopted a plan of reorganization, either as presented by the reorganization committee or as modified by all of the political subdivisions, within one (1) year after the initial plan of reorganization is presented:

(1) Not later than one (1) month after the end of the one (1) year period in which the legislative bodies must adopt a plan of reorganization, the reorganization committee shall submit a final plan of

reorganization to the legislative bodies of the political subdivisions.

(2) Not later than one (1) month after receiving the final plan of reorganization under subdivision (1), each of the legislative bodies must:

(A) hold a hearing on the final plan of reorganization; and

(B) adopt either a resolution approving the final plan of reorganization or a resolution rejecting the final plan of reorganization.

If a legislative body does not adopt a resolution under this subdivision within the one (1) month period, the failure to adopt a resolution is considered to be an approval of the final plan of reorganization.

(3) If a legislative body adopts a resolution approving the final plan of reorganization, the legislative body shall certify its approval under section 23 of this chapter.

(4) If any of the legislative bodies adopts a resolution rejecting the final plan of reorganization, the registered voters of a political subdivision in which the final plan of reorganization was rejected by a legislative body under subdivision (2) may submit a petition to the clerk of the circuit court approving the final plan of reorganization and requesting that a public question be held on the final plan of reorganization. The petition must be submitted not later than one hundred eighty

(180) days after the legislative body voted to reject the final plan of reorganization. If the petition is signed by at least ten percent (10%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election:

(A) the political subdivision is considered to have approved the holding of the public question on the final plan of reorganization, notwithstanding the vote by the legislative body rejecting the final plan of reorganization; and

(B) the clerk of the circuit court shall certify approval of the final plan of the reorganization and the holding of the public question in the manner specified in section 23 of this chapter.

Sec. 24. The legislative body of the reorganizing political subdivision with the largest population shall provide for a certified copy of the plan of reorganization to be filed with each of the following at the same time certifications are made under section 23 of this chapter:

(1) The county recorder of each county in which a reorganizing political subdivision is located.

(2) The department of local government finance.

(3) If any of the reorganizing political subdivisions is a school corporation, the department of education.

(4) If the plan of reorganization changes any election district or abolishes an elected office, the clerk of the circuit court in each county affected by the election district or elected office.

Sec. 25. Each county recorder receiving a certification under section 23 of this chapter, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, shall record the certification and the plan of reorganization in the records of the county recorder without charge.

Sec. 26. When a county recorder has received certifications under this chapter from all of the reorganizing political subdivisions, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision is located that a public question on a plan of reorganization is eligible to be placed

on the ballot for consideration of the voters of each of the reorganizing political subdivisions or (in the case of a reorganization described in section 1(a)(9) of this chapter) for consideration by the voters of the entire county.

Sec. 27. After the county recorder of each county in which reorganizing political subdivisions are located has notified the county election board that a public question on a plan of reorganization is eligible to be placed on the ballot, the county election board shall place the public question on the ballot

in accordance with IC 3-10-9 on the first regularly scheduled election that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received.

Sec. 28. A public question under this chapter shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

"Shall _____ (insert name of political subdivision) and _____ (insert name of political subdivision) reorganize as a single political subdivision?"

Sec. 29. IC 3 applies to the election at which a public question under this chapter is considered.

Sec. 30. (a) Except as provided in subsection (b), at the same time that election results are certified under IC 3, the circuit court clerk of each of the counties in which a public question under this chapter is on the ballot shall jointly issue, in the form prescribed by the state election board, a certificate declaring whether the public question is approved or rejected by a majority of the voters voting on the public question in each of the reorganizing political subdivisions. In addition to any other requirements in IC 3 concerning filing of the certification, the certification shall be sent to each of the following:

- (1) The clerk of each of the reorganizing political subdivisions.
- (2) The county auditor of each county in which a reorganizing political subdivision is located.
- (3) The county recorder of each county in which a reorganizing political subdivision is located.
- (4) The state board of accounts.
- (5) The department of local government finance.
- (6) The department of state revenue.
- (7) The budget agency.
- (8) If any of the reorganizing political subdivisions is a school

corporation, the department of education.

(b) In the case of a public question on a reorganization described in section 1(a)(9) of this chapter:

(1) the public question on a plan of reorganization shall be placed on the ballot for consideration by the voters of the entire county;

(2) the vote on the public question by the voters of the entire county shall be tabulated;

(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the vote on the public question by the voters of:

(A) each reorganizing municipality; and

(B) the county (excluding the voters of the reorganizing municipalities); shall be tabulated separately; and

(4) the circuit court clerk shall issue, in a form prescribed by the state election board, separate certificates regarding whether the public question is approved or rejected by the voters of:

(A) the entire county;

(B) each reorganizing municipality (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold); and

(C) the county, excluding the voters of the reorganizing municipalities (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold);

voting on the public question

Sec. 31. Each county recorder receiving a certification from a circuit court clerk under section 30 of this chapter shall file the certification without charge with the plan of reorganization recorded under section 25 of this chapter.

Sec. 32. (a) This subsection does not apply to a reorganization described in section 1(a)(9) of this chapter. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision voting on the public question approve the public question on the reorganization. The vote of voters of a reorganizing political subdivision (for

example, a city) who also are voters in a second reorganizing political subdivision (for example, a township) that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside.

(b) This subsection applies only to a reorganization described in section 1(a)(9) of this chapter. The reorganization is approved only if:

(1) the percentage of voters voting on the public question who vote, on a countywide basis, in favor of the proposed reorganization is at least equal to the countywide vote approval percentage specified in the final reorganization plan;

(2) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan; and

(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan.

If the reorganization is not approved, the reorganization is terminated. If the legislative bodies of the reorganizing political subdivisions have agreed that the vote in the public question shall be conducted with a rejection threshold, then in tabulating the votes under subdivisions (2) and (3), the vote of voters of a reorganizing municipality who also are voters in the county shall be included only in the tally of votes for the municipality in which the voters reside.

Sec. 33. Except in the case of a reorganization described in section 1(a)(9) of this chapter, if a reorganization is not approved by the majority of the voters in each reorganizing political subdivision voting on the public question, the reorganization is terminated. A political subdivision in which voters of the political subdivision approved the reorganization may continue with a

reorganization with another political subdivision in which the reorganization was approved only if a new plan of reorganization is approved by the voters of each political subdivision in the manner provided by this chapter. The reorganization committee shall adopt a plan to specify how matters related to the termination of the reorganization shall be handled.

Sec. 34. (a) This section applies if:

(1) in the case of a reorganization that is not described in section 1(a)(9) of this chapter, the majority of the voters of each of the reorganizing political subdivisions voting on the public question approve the public question concerning the reorganization; or

(2) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization is approved as set forth in section 32(b) of this chapter.

(b) The political subdivisions are reorganized in the form and under the conditions specified by the legislative bodies of the reorganizing political subdivisions in the plan of reorganization filed with the county recorder under this chapter.

Sec. 35. (a) This section applies to an initial election:

(1) of the members of a governing body or officers that are elected by the voters for a reorganized political subdivision that:

(A) is a town; and

(B) has town boundaries that encompass part of another town that was part of the reorganization;

(2) that is conducted before the reorganization takes effect; and

(3) to which IC 3-10-7-1 applies.

(b) The members of each precinct board shall be jointly appointed by the town election boards of each of the reorganizing political subdivisions.

Sec. 36. (a) This section applies if section 5 of this chapter requires an election for a reorganization to

become effective.

(b) At the next:

- (1) general election, if the reorganized political subdivision is not a municipality or a school corporation;
- (2) municipal election, if the reorganized political subdivision is a municipality; or
- (3) primary or general election, as specified in an election plan adopted in substantially identical resolutions by the legislative

body of each of the participating political subdivisions if the reorganized political subdivision is a school corporation;

after the voters approve a reorganization, one (1) set of officers for the reorganized political subdivision having the combined population of the reorganizing political subdivisions shall be elected by the voters in the territory of the reorganized political subdivision as prescribed by statute.

(c) In the election described in subsection (b):

- (1) one (1) member of the legislative body of the reorganized political subdivision shall be elected from each election district established by the reorganizing political subdivisions in substantially identical resolutions adopted by the legislative body of each of the reorganizing political subdivisions; and
- (2) the total number of at large members shall be elected as prescribed by statute for the reorganized political subdivision.

(d) If appointed officers are required in the reorganized political subdivision, one (1) set of appointed officers shall be appointed for the reorganized political subdivision. The appointments shall be made as required by statute for the reorganized political subdivision. Any statute requiring an appointed officer to reside in the political subdivision where the appointed officer resides shall be treated as permitting the appointed officer to reside in any part of the territory of the reorganized political subdivision.

Sec. 37. The legislative bodies of the reorganizing political subdivisions and an adjacent political subdivision may change the boundaries of the reorganized political subdivision by adopting substantially identical resolutions clearly describing the boundary changes. The resolutions must be filed as required by law for a boundary change for the reorganized political subdivision and may not provide for a territory that is smaller than the territory permitted by law for any of the political subdivisions. If the law establishes additional procedures for the annexation or disannexation of the territory of a political subdivision, the political subdivisions changing boundaries must comply with the annexation or disannexation procedures required by law.

Sec. 38. A reorganized political subdivision has the powers granted by statute to a political subdivision of the same type as the reorganized political subdivision. However, if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power or have the officers or number of offices that a

statute would have permitted any of the reorganizing political subdivisions to have.

Sec. 39. If a law does not permit the reorganized political subdivision to exercise generally throughout the territory of the reorganized political subdivision a power that any of the reorganizing political subdivisions had before the reorganization, the reorganized political subdivision may exercise the power outside the original territory of the reorganizing political subdivision only by following the laws applicable to the expansion of the service area of the reorganizing political subdivision.

Sec. 40. The following apply in the case of a reorganization under this article:

- (1) Indebtedness that was incurred by a political subdivision before the reorganization:
 - (A) may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization; and
 - (B) must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization.
- (2) Pension obligations existing as of the effective date of the reorganization:
 - (A) may not be imposed on taxpayers that were not responsible for payment of the pension

obligations before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.

Sec. 41. (a) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter or a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1977 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department, police department, or county police department of the reorganized political subdivision; remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter or police officer shall receive credit for any service as a member of the 1977 fund before the reorganization to determine the firefighter's or police officer's eligibility for benefits under IC 36-8-8.

(b) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter by a political subdivision that is reorganized under this article;

(2) who is a member of the 1937 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department of the reorganized political subdivision; remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the reorganization to determine the firefighter's eligibility for benefits under IC 36-8-7.

(c) Notwithstanding any other law, an individual:

(1) who is employed as a member of a county police department by a political subdivision that is reorganized under this article;

(2) who is a member of the sheriff's pension trust before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes a law enforcement officer of the reorganized political subdivision; remains a member of the sheriff's pension trust. The individual shall receive credit for any service as a member of the sheriff's pension trust before the reorganization to determine the individual's eligibility for benefits under IC 36-8-10.

(d) Notwithstanding any other law, an individual:

(1) who is employed as a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1925 fund or 1953 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the police department or county police department of the reorganized political subdivision; remains a member of the 1925 fund or 1953 fund. The police officer shall receive credit for any service as a member of the 1925 fund or 1953 fund before the reorganization to determine the police officer's eligibility for benefits under IC 36-8-6 or IC 36-8-7.5.

(e) Notwithstanding any other law, an individual:

(1) who is employed by a political subdivision that is reorganized under this article;

(2) who is a member of the pre-1996 account (as defined in IC 21-6.1-1-6.9) before the effective date of the reorganization

under this article; and

(3) who, after the reorganization, becomes an employee of the reorganized political subdivision in a

position that qualifies the individual for service credit in the Indiana state teachers' retirement fund; remains a member of the pre-1996 account.

Sec. 42. If the functions of an elected office are transferred to another elected office by a reorganization under this article, any law, rule, or agreement that requires or permits an action by an elected officer shall be treated after the functions of the elected officer are transferred as referring to the elected officer to which the functions have been transferred by the reorganization.

Sec. 43. The legislative body or voters of a reorganized political subdivision may terminate a reorganization or restore one (1) or more of the reorganizing political subdivisions participating in a reorganization in the same manner that a reorganization may be initiated under this chapter. If the voters in the reorganized political subdivision approve a public question approving termination of the reorganization or restoration of a reorganizing political subdivision, the reorganized political subdivision shall terminate the reorganization and restore the reorganizing political subdivisions in the same manner as a reorganization is completed under this chapter.

Chapter 5. Cooperative Agreements and Transfers of Responsibilities

Sec. 1. Notwithstanding any other law, two (2) or more political subdivisions may enter into a cooperative agreement under this chapter by using the same procedures set forth in this article for the initiation and approval of a reorganization under this article. A cooperative agreement under this chapter may be initiated and approved only in the manner set forth in this article for the initiation and approval of a reorganization under this article.

Sec. 2. (a) A cooperative agreement under this chapter must provide at least for the following:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying any joint undertaking and of establishing and maintaining a budget for any joint undertaking that is the subject of the cooperative agreement.
- (4) The methods that may be employed in accomplishing the

partial or complete termination of the cooperative agreement and for disposing of property upon partial or complete termination of the cooperative agreement.

(5) The manner in which the cooperative agreement is to be administered.

(6) The manner of acquiring, holding, and disposing of real and personal property that is the subject of the cooperative agreement.

(b) A cooperative agreement may include any condition or term that is necessary or appropriate.

Sec. 3. (a) The cooperative agreement may transfer the functions of an employee or a department of a political subdivision, including an elected office, to another employee or department of any political subdivision that has entered into the cooperative agreement.

(b) The functions of an elected office may be transferred only to another elected office.

(c) The cooperative agreement may provide for the abolishment of an elected office that is not required by the Constitution of the State of Indiana.

Sec. 4. A political subdivision may enter into a cooperative agreement with an entity to share the services of an employee employed by any party to the agreement.

Sec. 5. A cooperative agreement may provide that a political subdivision:

(1) may appropriate and pledge any legally available revenues to the payment of the bonds, leases, or other obligations of another political subdivision that is a party to the cooperative agreement; and

(2) will appropriate legally available revenues for any other payment under the cooperative agreement;

if the political subdivision's fiscal body finds that it is necessary, desirable, and in the best interests of the residents of that political subdivision.

Sec. 6. (a) A cooperative agreement may not permit an entity or another instrumentality established to administer the cooperative agreement to take any action that at least one (1) of the parties to the cooperative agreement could not carry out on its own.

(b) A cooperative agreement may permit the transfer of money from one (1) fund of a political

subdivision for a use authorized by the cooperative agreement.

Sec. 7. (a) A cooperative agreement transferring the functions of an elected office becomes effective only at the end of the term of the incumbent that holds the office.

(b) Any law, rule, or agreement that requires or permits an action by an employee or elected officer after the functions of the employee or elected officer are transferred shall be treated as referring to the employee or elected officer to which the functions have been transferred by the cooperative agreement.

Sec. 8. The department of local government finance shall adjust as necessary tax rates, tax levies, and budgets of political subdivisions that enter into a cooperative agreement under this chapter in the same manner as tax rates, tax levies, and budgets are adjusted under IC 36-1.5-3 for reorganizing political subdivisions.

SECTION 5. An emergency is declared for this act.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date:

Time:

HEA 1362

Figure

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