



January 20, 2006

HOUSE BILL No. 1362

DIGEST OF HB 1362 (Updated January 19, 2006 11:38 am - DI 73)

Citations Affected: IC 36-1; IC 36-1.5.

Synopsis: Establishes a uniform procedure for the reorganization of political subdivisions in any county. Provides that the reorganization process may be initiated by the legislative bodies of the reorganizing political subdivisions or by a petition signed by 10% of the voters in the reorganizing political subdivisions. Requires the reorganizing political subdivisions to appoint individuals to a reorganization committee to develop a plan for reorganization. Specifies the elements that must be included in the plan. Provides that the plan of reorganization must be adopted by all reorganizing political subdivisions before the proposed reorganization may be submitted to the voters for approval. Provides that a reorganization may occur only if the voters of the reorganizing political subdivisions approve the reorganization in the public question. Requires the department of local government finance to adjust the maximum property tax levies, maximum property tax rates, and budgets of political subdivisions that reorganize. Provides that when the reorganization is effective, all the participating political subdivisions except the remaining reorganized political subdivision cease to exist. Makes related changes.

Effective: Upon passage.

Buck, Bosma

January 12, 2006, read first time and referred to Committee on Government and Regulatory Reform.

January 19, 2006, amended, reported — Do Pass.

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HB 1362—LS 7130/DI 73+



January 20, 2006

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 BILL No. 1362

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

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

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

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

12 SECTION 2. IC 36-1-2-6 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 6. "Fiscal body" means:

- 14 (1) county council, for a county not having a consolidated city;
- 15 (2) city-county council, for a consolidated city or county having
- 16 a consolidated city;
- 17 (3) common council, for a city other than a consolidated city;

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- 1 (4) town council, for a town;
 2 (5) township board, for a township; or
 3 (6) governing body or budget approval body, for any other
 4 political subdivision **that has a governing body or budget**
 5 **approval body; or**
 6 **(7) chief executive officer of any other political subdivision**
 7 **that does not have a governing body or budget approval body.**

8 SECTION 3. IC 36-1-2-9 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE UPON PASSAGE]; Sec. 9. "Legislative body" means:

- 10 (1) board of county commissioners, for a county not subject to
 11 IC 36-2-3.5 or IC 36-3-1;
 12 (2) county council, for a county subject to IC 36-2-3.5;
 13 (3) city-county council, for a consolidated city or county having
 14 a consolidated city;
 15 (4) common council, for a city other than a consolidated city;
 16 (5) town council, for a town; or
 17 (6) township board, for a township;
 18 **(7) the governing body of any other political subdivision that**
 19 **has a governing body; or**
 20 **(8) chief executive officer of any other political subdivision**
 21 **that does not have a governing body.**

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

25 ARTICLE 1.5. GOVERNMENT MODERNIZATION

26 Chapter 1. General Provisions

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

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

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

35 political subdivisions.

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

- 38 (A) reduce reliance on property taxes; and
 39 (B) enhance the ability of political subdivisions to provide
 40 critical and necessary services.

- 41 (3) Strengthen the financial condition of state government.

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

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1 reorganization of political subdivisions.

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

7 Sec. 4. A political subdivision may exercise the powers granted
8 under this article without complying with the provisions of any
9 other law, statute, or rule.

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

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

17 Sec. 7. This article does not prohibit the reorganization of a
18 political subdivision under any other law that is not included in this
19 article.

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

22 Chapter 2. Definitions

23 Sec. 1. The definitions in IC 3-5-2 and IC 36-1-2 apply
24 throughout this article.

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

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

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

33 Sec. 5. "Reorganization committee" refers to a committee
34 established under this article to assist reorganizing political
35 subdivisions with developing a plan of reorganization.

36 Sec. 6. "Reorganized political subdivision" means the political
37 subdivision that is the successor to the reorganizing political
38 subdivisions participating in a reorganization.

39 Sec. 7. "Reorganizing political subdivision" refers to a political
40 subdivision in which:

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

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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

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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. 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. 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 the county in which a majority of the
 population of the municipality resides.

(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

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of the population of the municipal corporation resides.

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 the reorganization has been approved by the voters of each reorganizing political subdivision 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

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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.

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

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

(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 subdivisions that:

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

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in the proposed reorganization.

(b) If the written 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, 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) Deny the petition.
- (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) 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) Take no action.
- (2) Adopt a resolution declining to participate in a proposed reorganization
- (3) 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.
- (4) 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) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the

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1 resolution to the clerk of each political subdivision named in the
2 resolution.

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

8 Sec. 15. Not later than thirty (30) days after the clerk of the last
9 political subdivision to adopt a reorganization resolution under this
10 chapter has certified the resolution to all of the political
11 subdivisions named in the resolution, the reorganizing political
12 subdivisions shall appoint the number of individuals specified in
13 section 16 of this chapter to serve on a reorganization committee
14 to develop a plan of reorganization for the reorganizing political
15 subdivisions.

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

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

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

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

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

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

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1 reorganization committee.

2 (e) Except as otherwise provided in an agreement adopted by
3 the reorganizing political subdivisions, claims for expenditures for
4 the reorganization committee shall be made to the fiscal officer for
5 the reorganizing political subdivision with the largest population.
6 The fiscal officer shall pay the necessary expenditures and obtain
7 reimbursement from the reorganizing political subdivisions:

8 (1) in accordance with an agreement adopted by the
9 reorganizing political subdivisions; or

10 (2) in the absence of an agreement, in proportion to the
11 population of each reorganizing political subdivision.

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

13 (1) Adopt procedures governing the internal management of
14 the reorganization committee.

15 (2) Conduct public hearings on the plan of reorganization as
16 the reorganization committee determines necessary or
17 appropriate.

18 (3) Review the books and records of any reorganizing political
19 subdivision.

20 (4) Administer oaths.

21 (5) Issue and enforce subpoenas and discovery orders under
22 IC 4-21.5.

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

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

30 (1) The name and a description of the reorganized political
31 subdivision that will succeed the reorganizing political
32 subdivisions.

33 (2) A description of the boundaries of the reorganized political
34 subdivision.

35 (3) A description of the taxing areas in which taxes to retire
36 obligations of the reorganizing political subdivisions will be
37 raised.

38 (4) A description of the membership of the legislative body,
39 fiscal body, and executive of the reorganized political
40 subdivision, a description of the election districts or
41 appointment districts from which officers will be elected or
42 appointed, and the manner in which the membership of each

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1 elected or appointed office will be elected or appointed.

2 (5) A description of the services to be offered by the
3 reorganized political subdivision and the service areas in
4 which the services will be offered.

5 (6) The disposition of the personnel, the agreements, the
6 assets, and, subject to section 40 of this chapter, the liabilities
7 of the reorganizing political subdivisions, including the terms
8 and conditions upon which the transfer of property and
9 personnel will be achieved.

10 (7) Any other matter that the:

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

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

16 (c) Upon completion of the plan of reorganization, the
17 reorganization committee shall present the plan of reorganization
18 to the legislative body of each of the reorganizing political
19 subdivisions for adoption. The initial plan of reorganization must
20 be submitted to the legislative body of each of the reorganizing
21 political subdivisions not later than one (1) year after the clerk of
22 the last political subdivision to adopt a reorganization resolution
23 under this chapter has certified the resolution to all of the political
24 subdivisions named in the resolution.

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

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

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

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

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

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

39 Sec. 20. At a public hearing on a plan of reorganization
40 conducted under section 19 of this chapter, or in a public meeting
41 held not more than thirty (30) days after the public hearing
42 concludes, a legislative body of a reorganizing political subdivision

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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. 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

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each county affected by the election district or elected office.

Sec. 25. Each county recorder receiving a certification under section 23 of this chapter 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, 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.

Sec. 27. After the county recorder of each county in which a reorganizing political subdivision is 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. 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.

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- (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.

Sec. 31. Each county recorder receiving a certification from a county election board 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 reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision approve the public question on the reorganization. The vote of voters of a reorganizing political subdivision, (for example, a township) who also are voters in another political subdivision (for example, a county) shall be included in the tally of votes for each reorganizing political subdivision in which the voters reside.

Sec. 33. If a reorganization is not approved by the majority of the voters in each reorganizing political subdivision, 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 the majority of the voters of each of the reorganizing political subdivisions approves the public question concerning the reorganization.

(b) Except as provided in subsection (c), 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

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- 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 municipal legislative body 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) 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

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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. (a) Except as provided in subsections (b) and (c), if any indebtedness of a reorganizing political subdivision exists after the reorganization, the fiscal body of the reorganized political subdivision shall annually levy a property tax or, if permitted by the original obligation, another tax until the indebtedness is fully paid. The tax rate may not exceed the tax rate necessary to repay the indebtedness and interest on the indebtedness. The tax shall be levied in:

- (1) the area served by the reorganizing political subdivision before the reorganization; or
- (2) if permitted in the plan of reorganization, the entire area of the reorganized political subdivision.

In addition, the reorganized political subdivision may provide for the sharing of the revenue of the reorganized political subdivision from any area of the reorganized political subdivision to retire the indebtedness.

(b) Except as provided in subsection (c), if any indebtedness of a reorganizing political subdivision exists after the reorganization

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and before the reorganization revenue from a local income tax, excise tax, or sales tax revenue was pledged by the political subdivision to pay any part of the indebtedness, the fiscal body of the reorganized political subdivision shall annually impose the local income tax, excise tax, sales tax, or, if permitted by the original obligation, another tax until the indebtedness is fully paid. The tax rate may not exceed the tax rate necessary to repay the indebtedness and interest on the indebtedness. The tax shall be imposed in:

- (1) the area served by the reorganizing political subdivision before the reorganization; or
- (2) if permitted in the plan of reorganization, the entire area of the reorganized political subdivision.

In addition, the reorganized political subdivision may provide for the sharing of the revenue of the reorganized political subdivision from any area of the reorganized political subdivision to retire the indebtedness.

(c) This subsection applies if:

- (1) a reorganizing political subdivision incurred an indebtedness before the reorganization became effective; and
- (2) as part of the reorganization, part of the territory of the reorganizing political subdivision was detached and transferred to a political subdivision that is not part of the reorganization.

The political subdivision with the detached area shall annually levy a property tax or, if permitted by the original obligation, another tax until the indebtedness is fully paid. The tax rate may not exceed the tax rate necessary to repay the indebtedness and interest on the indebtedness after deducting any payments made by the reorganized political subdivision under subsections (a) and (b). The tax shall be levied in the area served by the reorganizing political subdivision 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

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1 firefighter or police officer shall receive credit for any service as a
 2 member of the 1977 fund before the reorganization to determine
 3 the firefighter's or police officer's eligibility for benefits under
 4 IC 36-8-8.

5 (b) Notwithstanding any other law, an individual:

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

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

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

16 (c) Notwithstanding any other law, an individual:

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

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

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

28 (d) Notwithstanding any other law, an individual:

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

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

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

41 (e) Notwithstanding any other law, an individual:

42 (1) who is employed by a political subdivision that is

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1 reorganized under this article;

2 (2) who is a member of the pre-1996 account (as defined in
3 IC 21-6.1-1-6.9) before the effective date of the reorganization
4 under this article; and

5 (3) who, after the reorganization, becomes an employee of the
6 reorganized political subdivision in a position that qualifies
7 the individual for service credit in the Indiana state teachers'
8 retirement fund;

9 remains a member of the pre-1996 account.

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

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

27 SECTION 5. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1362, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 40, delete "for which the voters have adopted a public question" and insert **"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."

Page 3, delete line 41.

Page 4, line 18, delete "an agreement or".

Page 4, line 28, delete "an agreement or".

Page 4, line 32, delete "an agreement or".

Page 5, line 2, delete "an agreement or".

Page 5, line 6, delete "agreement or".

Page 6, line 14, delete "participating" and insert "reorganizing".

Page 6, delete lines 27 through 42.

Delete page 7.

Page 8, delete lines 1 through 36.

Page 8, line 37, delete "15." and insert "5".

Page 8, line 41, delete "finally adopted plan of" and insert **"joint certification from the county election board in each county in which reorganizing political subdivisions are located that indicates that the reorganization has been approved by the voters of each reorganizing political subdivision"**.

Page 8, line 42, delete "reorganization".

Page 8, line 42, delete "28" and insert "31".

Page 9, line 5, delete "30" and insert "36".

Page 9, line 26, delete "16." and insert "6".

Page 10, delete lines 5 through 20.

Page 10, line 21, delete "18." and insert "7".

Page 10, line 27, after "or" insert **", if authorized in the plan of reorganization,"**.

Page 10, line 36, after "or" insert **", if authorized in the plan of reorganization,"**.

Page 10, delete lines 40 through 41, begin a new paragraph and insert:

"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

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

(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 subdivisions 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 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, 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) Deny the petition.
 - (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) The clerk of the political subdivision adopting a resolution

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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) Take no action.
- (2) Adopt a resolution declining to participate in a proposed reorganization
- (3) 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.
- (4) 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) 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."

Page 10, line 42, delete "reorganization under this chapter," begin a new paragraph and insert:

"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 resolution to all of the political subdivisions named in the resolution,".

Page 11, line 2, delete "20" and insert **"16"**.

Page 11, delete lines 5 through 10.

Page 11, line 11, delete "20." and insert **"16."**.

Page 11, line 13, delete "under section 17" and insert **"by the reorganizing political subdivisions."**

Page 11, line 14, delete "of this chapter."

Page 11, line 39, delete "under" and insert **"by the reorganizing political subdivisions,".**

Page 11, line 40, delete "section 17 of this chapter,".

Page 12, line 3, delete "under section 17" and insert **"by the**

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reorganizing political subdivisions;".

Page 12, line 4, delete "of this chapter;".

Page 12, line 7, delete "21." and insert "17.".

Page 12, line 18, delete "22." and insert "18.".

Page 13, line 1, delete "34" and insert "40".

Page 13, line 9, delete ", in an agreement under section 17 of this".

Page 13, line 10, delete "chapter,".

Page 13, line 17, delete "voters" and insert **"clerk of the last political subdivision to adopt a reorganization resolution under this chapter has certified the resolution to all of the political subdivisions named in the resolution."**

Page 13, delete line 18.

Page 13, line 19, delete "23." and insert "19.".

Page 13, line 33, delete "24." and insert "20.".

Page 13, line 34, delete "23" and insert "19".

Page 14, line 3, delete "25." and insert "21.".

Page 14, line 7, delete "26." and insert "22.".

Page 14, line 8, delete "action" and insert **"any of the actions described in section 20 of this chapter"**.

Page 14, line 13, delete "27." and insert "23.".

Page 14, delete lines 24 through 30, begin a new paragraph and insert:

"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."**

Page 14, line 31, delete "28." and insert "25.".

Page 14, line 32, delete "27" and insert "23".

Page 14, between lines 34 and 35, begin a new paragraph and insert:

"Sec. 26. When a county recorder has received certifications under this chapter from all of the reorganizing political subdivisions, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision

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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.

Sec. 27. After the county recorder of each county in which a reorganizing political subdivision is 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. 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.

Sec. 31. Each county recorder receiving a certification from a county election board under section 30 of this chapter shall file the certification without charge with the plan of reorganization

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recorded under section 25 of this chapter.

Sec. 32. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision approve the public question on the reorganization. The vote of voters of a reorganizing political subdivision, (for example, a township) who also are voters in another political subdivision (for example, a county) shall be included in the tally of votes for each reorganizing political subdivision in which the voters reside.

Sec. 33. If a reorganization is not approved by the majority of the voters in each reorganizing political subdivision, 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 the majority of the voters of each of the reorganizing political subdivisions approves the public question concerning the reorganization.

(b) Except as provided in subsection (c), 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."

Page 14, line 35, delete "29." and insert "35."

Page 15, line 6, delete "30." and insert "36."

Page 15, line 6, delete "15" and insert "5".

Page 15, line 37, delete "31." and insert "37."

Page 16, line 7, delete "32." and insert "38."

Page 16, line 9, delete "the reorganizing" and insert "if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the".

Page 16, delete line 10.

Page 16, line 14, delete "33." and insert "39."

Page 16, line 22, delete "34." and insert "40."

Page 16, line 22, delete "subsection (b)" and insert "subsections (b) and (c)".

Page 16, between lines 37 and 38, begin a new paragraph and insert:
"(b) Except as provided in subsection (c), if any indebtedness of

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a reorganizing political subdivision exists after the reorganization and before the reorganization revenue from a local income tax, excise tax, or sales tax revenue was pledged by the political subdivision to pay any part of the indebtedness, the fiscal body of the reorganized political subdivision shall annually impose the local income tax, excise tax, sales tax, or, if permitted by the original obligation, another tax until the indebtedness is fully paid. The tax rate may not exceed the tax rate necessary to repay the indebtedness and interest on the indebtedness. The tax shall be imposed in:

- (1) the area served by the reorganizing political subdivision before the reorganization; or
- (2) if permitted in the plan of reorganization, the entire area of the reorganized political subdivision.

In addition, the reorganized political subdivision may provide for the sharing of the revenue of the reorganized political subdivision from any area of the reorganized political subdivision to retire the indebtedness."

Page 16, line 38, delete "(b)" and insert "(c)".

Page 17, line 8, delete "subsection (a)" and insert "subsections (a) and (b)".

Page 17, line 11, delete "35." and insert "41".

Page 18, between lines 29 and 30, begin a new paragraph and insert:

"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."

Page 18, line 30, delete "36." and insert "43".

and when so amended that said bill do pass.

(Reference is to HB 1362 as introduced.)

BUCK, Chair

Committee Vote: yeas 10, nays 2.

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