



Report to the Indiana General Assembly

Local Fiscal Review (2008 HEA 1001) Local Government Consolidation (IC 36-1.5)



**SCHOOL OF PUBLIC AND
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Executive Summary

In 2008, the Indiana Advisory Commission on Intergovernmental Relations (IACIR) conducted reviews of the new local fiscal review required by 2008 HEA 1001 and the use of the Government Modernization statute (2006 HEA 1362; IC 36-1.5) to accomplish the voluntary consolidation of local governments.

Local Fiscal Review

The Indiana General Assembly passed HEA 1001 that established new fiscal review responsibilities for municipal and county fiscal bodies in 2008. Except for counties and schools, units proposing property tax levies are required to submit their proposed budgets to the appropriate county council for a non-binding recommendation (IC 6-1.1-17-3.5). Governing bodies made up of a majority of non-elected officials must submit their budgets to an elected council (county or municipal) for approval if their budgets increase more than the assessed value (AV) growth quotient (IC 6-1.1-17-20). These changes were implemented by local governments for 2009 budgets that were adopted in the fall and winter of 2008.

The IACIR took testimony and conducted its deliberations on local fiscal review at the commission meetings held on October 2, 2008, and November 20, 2008. The points of consensus reached by the commission are provided in Figure 1.

Figure 1. Areas of agreement regarding local fiscal review

1. More communication and coordination among local governments will be needed to address the new property tax circuit breakers.
2. General support exists for binding review on non-elected boards.
3. For the review to be effective, schools and counties must be included.
4. The time allowed for review is inadequate, both administratively and substantively. The timeline for budgeting and review needs to be reworked to allow adequate time for both.
5. Compliance by counties will require additional resources.
6. Continued open communication between state and local government is needed to resolve implementation issues.
7. Better regular information about local fiscal performance is needed to make local review effective.
8. More general guidance and training on the review process is needed.
9. A template for local government submissions to the county council is needed.
10. The 2008 budget process and timing was an anomaly; changes should not be based on those unique issues.

Local Government Consolidation

In 2006, the Indiana General Assembly passed IC 36-1.5 Government Modernization to enable local governments to consolidate government units voluntarily and to provide an additional method for joint service provision.

The IACIR took testimony and conducted its deliberations on IC 36-1.5 at the commission meetings held on September 2, 2008, October 2, 2008, and November 20, 2008. The commission received information from each of the seven sets of communities that have utilized the law or considered doing so.

To date, only one effort has proceeded to completion using IC 36-1.5. One effort has failed, and a number of efforts have resulted in decisions to pursue less than full consolidation or service consolidation using other statutory mechanisms. Two additional efforts are just beginning.

Experience thus far shows, in part, the inherent difficulties in consolidating the governance of local governments. Local experience, staff analysis, and the commission's deliberations suggest a number of issues that if addressed could increase the use of IC 36-1.5 to consolidate local government units. These issues are summarized in Figure 2.

Figure 2. Issues regarding local government consolidation (IC 36.1.5)

1. An unlimited set of government structures could become difficult for citizens to understand and for state and local government to manage.
2. IC 36-1.5 does not allow the consolidation of townships across county lines.
3. The consolidation of local government units is inherently difficult. The process required by IC 36-1.5 is onerous and likely will hinder further consolidations.
4. The statute is biased toward new consolidation efforts rather than facilitating existing efforts.
5. Rejection thresholds (super majority) and potential countywide approval make success more difficult.
6. Local legislative bodies can stop the process in spite of an initiating petition by citizens.
7. Local officials can deter the process through the appointment of hostile committee members.
8. The statutory and legal limits of the structural and service flexibility provided by IC 36-1.5 are unclear.
9. When the participating local governments are of different types (e.g., units are treated in the reorganization process).
10. Limited detail is provided about the ability of consolidated local governments to establish differential service and tax rates within a single local government.
11. The potential loss of fiscal resources may deter future consolidations.
12. It is unclear how new local governments will fit into existing systems, such as tax distribution formulas.
13. Explicit incentives are needed to encourage the use of this tool and others that are available to accomplish local unit consolidation and service collaboration.
14. The potential for legislative action on the recommendations of the Commission on Local Government Reform creates significant uncertainty for communities considering consolidation or service arrangements under IC 36-1.5.

Introduction

In the fall of 2008, the Indiana Advisory Commission on Intergovernmental Relations (IACIR) conducted reviews of the new local fiscal review required by 2008 HEA 1001 and the use of the Government Modernization statute (2006 HEA 1362; IC 36-1.5) to accomplish the voluntary consolidation of local governments. The IACIR took testimony and conducted its deliberations on these issues at the commission meetings held on September 2, 2008, October 2, 2008, and November 20, 2008. A summary of the IACIR discussions and conclusions are provided below. Additional detail regarding the commission's deliberations is available within the commission's meeting minutes at iacir.spea.iupui.edu.

Local Fiscal Review

Background

In early 2007, the Indiana General Assembly created the county boards of tax and capital project review to provide local fiscal review. In December 2007, the Indiana Commission on Local Government Reform released recommendations for overarching local government fiscal review by county councils, as well as the review of the debt and budgets of schools and non-elected budgets by county councils or municipal legislative bodies. In 2008, the Indiana General Assembly passed HEA 1001 that repealed county boards of tax and capital project review and established new fiscal review responsibilities for municipal and county fiscal bodies. Except for counties and schools, units proposing property tax levies are required to submit their proposed budgets to the appropriate county council for a non-binding recommendation (IC 6-1.1-17-3.5) (Appendix A). Governing bodies made up of a majority of non-elected officials must submit their budgets to an elected council (county or municipal) for approval if their budgets increase more than the assessed value (AV) growth quotient (IC 6-1.1-17-20) (Appendix A). These changes were implemented by local governments for 2009 budgets that were adopted in the fall and winter of 2008.

Research, Testimony, and Deliberations

The IACIR took testimony and conducted its deliberations on local fiscal review at the commission meetings held on October 2, 2008, and November 20, 2008. The commission received formal presentations and/or testimony from the individuals listed below:

- Dan Jones, Budget Division, Department of Local Government Finance (DLGF) (Appendix B)
- David Bottorff, Association of Indiana Counties
- Andrew Berger, Association of Indiana Counties
- Rhonda Cook, Indiana Association of Cities and Towns
- Matt Norris, representing the Indiana Township Association

Conclusions

A number of policy and implementation issues were identified from testimony and information provided directly by commission members. The points of consensus reached by the commission are provided in Figure 1. A summary of additional issues follows. In cases when directly conflicting opinions were expressed these issues are identified as areas of disagreement.

Figure 1. Areas of agreement regarding local fiscal review

1. More communication and coordination among local governments will be needed to address the new property tax circuit breakers.
2. General support exists for binding review on non-elected boards.
3. For the review to be effective, schools and counties must be included.
4. The time allowed for review is inadequate, both administratively and substantively. The timeline for budgeting and review needs to be reworked to allow adequate time for both.
5. Compliance by counties will require additional resources.
6. Continued open communication between state and local government is needed to resolve implementation issues.
7. Better regular information about local fiscal performance is needed to make local review effective.
8. More general guidance and training on the review process is needed.
9. A template for local government submissions to the county council is needed.
10. The 2008 budget process and timing was an anomaly; changes should not be based on those unique issues.

Areas of Disagreement:

- County council review should / should not be binding.
- It is appropriate / inappropriate for DLGF to use the results of the local review in its deliberations.
- County councils are / are not the appropriate body for review.
 - County councils represent all taxpayers in county.
 - Another mechanism is preferable, i.e., a review body with broader local government representation.
 - Counties do not have experience with many municipal-level services.
 - Conflict of interest: counties have incentive to treat their own budgets more favorably.
 - Personalities and politics may get in the way.

Other Issues:

- Are redevelopment commissions included in the review requirements?
- Will there be formal reporting of review to state?
- Are local governments expected to amend their budgets based on review? In some cases, amending local budgets could require re-publication.
- Solutions must address the variation in circumstances across counties.
- County board of tax adjustment and the county board of tax and capital projects review also have been proposed to provide this review.
- Circuit breakers will force collaboration.
- Comfort with the new responsibilities is varied across the state.
- Adjust the DLGF spreadsheet to provide additional information such as assessed value (AV), income growth, and levy growth.
- The use of the review process to make recommendations about individual expenditures by local governments, rather than overall spending, could be problematic.
- Special issues exist regarding libraries and the use of review authority to affect the selection and purchase of materials.
- New pressures as the result of review process may cause local elected officials in small jurisdictions to leave office.
- Local governments need additional revenue options.
- Require electronic submissions.

Local Government Consolidation

Background

The Indiana General Assembly passed IC 36-1.5 Government Modernization (Appendix C) to enable local governments to consolidate government units voluntarily and to provide an additional method for joint service provision in 2006. This legislation is also referred to as 2006 HEA 1362. In late 2007, the Indiana Commission on Local Government Reform released its report including a recommendation to “expand voluntary coordination and consolidation of units and services. Strengthen the ability of voters to compel consolidation.”

Research, Testimony, and Deliberations

The IACIR staff was able to identify seven (7) communities that have utilized the law or considered doing so:

- Town of Zionsville, Eagle Township, Union Township (Boone County)
- City of Evansville and Vanderburgh County
- East Allen County communities (townships and municipalities)
- City of Fort Wayne and Allen County
- City of Muncie and Delaware County
- White River Township, city of Greenwood and/or town of Bargersville
- Pike, Wayne, Decatur, Franklin, Perry, and Lawrence townships (Marion County)

The IACIR took testimony and conducted its deliberations on IC 36-1.5 at the commission meetings held on September 2, 2008, October 2, 2008, and November 20, 2008. The commission received information from the individuals listed below regarding their local efforts, through direct or written testimony and telephone interviews:

- Gene Thompson (Zionsville/Union Township/Eagle Township)
- Steve Buschmann, Thrasher, Buschmann, Griffith & Volker, PC (Marion County townships and Zionsville/Union Township/Eagle Township)
- Eric Kelly, Ball State University (Muncie/Delaware County)
- Jay Marks, White River Township Trustee (Greenwood/Bargersville/White River Township)
- Steve Schaefer, The Chamber of Commerce of Southwest Indiana (Evansville/Vanderburgh County)
- Mayor Terry McDonald, city of New Haven (East Allen County communities)
- Marilyn Moran-Townsend, CVC Communications (Fort Wayne/Allen County)

The status of consolidation efforts in the identified communities is provided in the table below. To date, only one effort has proceeded to completion using IC 36-1.5. One effort has failed, and a number of efforts have resulted in decisions to pursue less than full consolidation or service consolidation using other statutory mechanisms. Two additional efforts are just beginning.

Table 1. Local efforts using IC 36-1.5

Participating governments	Services affected	Status as of December 15, 2008
Zionsville, Eagle Township, and Union Township (Boone County)	Full consolidation	The consolidation was on the November 2008 ballot, passed in all three areas, and will take effect in January 2010.
Evansville and Vanderburgh County	Up to full consolidation	Details in legislation have kept local leaders from beginning the reorganization process.
East Allen County communities (townships and municipalities)	Partial consolidation: collaborate on police service, create own building department and street and highway department.	The reorganization committee presented the plan to the participating units. Monroeville and Leo-Cedarville have not acted.
Fort Wayne and Allen County	Collaboration under existing mechanisms on fiscal matters, public safety coordination, dispatch, public safety operations facility, operations services facility, stormwater management, transportation, planning and zoning, and best practices and benchmarking.	The reorganization committee issued a report in October 2008. They made numerous recommendations about collaborative efforts, most of which can be accomplished without changes to state law and without the referendum required by IC 36-1.5.
Muncie and Delaware County	Up to full consolidation	The reorganization committee has begun meeting.
White River Township and Greenwood or Bargersville	Up to full consolidation	Greenwood passed a resolution to consolidate with White River Township in early November 2008. White River Township also passed the same resolution in December 2008. Bargersville passed a resolution to consolidate the town and part of White River Township. Questions still remain about whether White River Township will participate in a second study with the town and whether some arrangement will be reached to include all three entities in a joint study.
Pike, Wayne, Decatur, Franklin, Perry, and Lawrence townships (Marion County)	Cooperative agreement regarding fire service	The committee amended its final report to indicate that the efforts previously mentioned could be accomplished without using IC 36-1.5.

Conclusions

The experience thus far shows, in part, the inherent difficulties in consolidating the governance of local governments. Local experience, staff analysis, and the commission's deliberations suggest a number of issues that if addressed could increase the use of IC 36-1.5 to consolidate local government units. These issues are summarized in Figure 1 with additional discussion below.

Figure 2. Issues regarding local government consolidation (IC 36-1.5)

1. An unlimited set of government structures could become difficult for citizens to understand and for state and local government to manage.
2. IC 36-1.5 does not allow the consolidation of townships across county lines.
3. The consolidation of local government units is inherently difficult. The process required by IC 36-1.5 is onerous and likely will hinder further consolidations.
4. The statute is biased toward new consolidation efforts rather than facilitating existing efforts.
5. Rejection thresholds (super majority) and potential countywide approval make success more difficult.
6. Local legislative bodies can stop the process in spite of an initiating petition by citizens.
7. Local officials can deter the process through the appointment of hostile committee members.
8. The statutory and legal limits of the structural and service flexibility provided by IC 36-1.5 are unclear.
9. When the participating local governments are of different types (e.g., units are treated in the reorganization process.
10. Limited detail is provided about the ability of consolidated local governments to establish differential service and tax rates within a single local government.
11. The potential loss of fiscal resources may deter future consolidations.
12. It is unclear how new local governments will fit into existing systems, such as tax distribution formulas.
13. Explicit incentives are needed to encourage the use of this tool and others that are available to accomplish local unit consolidation and service collaboration.
14. The potential for legislative action on the recommendations of the Commission on Local Government Reform creates significant uncertainty for communities considering consolidation or service arrangements under IC 36-1.5.

1. An unlimited set of government structures could become difficult for citizens to understand and state and local government to manage.

IC 36-1.5-4-1 allows counties, townships, municipalities, school corporations, municipal corporations, and special taxing districts to consolidate with like units. It also allows the consolidation of a township and a municipality, a township and county, a municipality and a county, a school corporation and a county, a school corporation and a municipality, a municipal corporation and a county, and a municipal corporation and a municipality.

The addition of so many potential types of consolidated local governments with the duties of multiple local governments can create additional challenges for management and for achieving transparency and accountability. Current state management systems, such as those established in the State Board of Accounts and the Department of Local Government Finance, are based upon current types of local government units. The addition of new local governments with the duties of two types of local

governments will require rules and procedures specific to the new type of unit. In some cases, such a system may be required to manage a single local government. The current set of local governments is often difficult for citizens to understand. Adding more types of local government may make it more difficult to access these local governments and hold them accountable. Further thought may be needed about limiting consolidations between different types of local governments to fewer potential combinations.

2. *IC 36-1.5 does not allow the consolidation of townships across county lines.*

IC 36-1.5-4-1 allows the consolidation with like local governments that are adjacent, including counties and townships. The consolidation of townships using IC 36-1.5 also requires that the townships be within the same county. This restriction is not placed on the consolidation of other like unit, e.g., two municipalities or two school districts. Removing the township-specific requirement increases the options for township consolidation and the likelihood of those consolidations occurring.

3. *The consolidation of local government units is inherently difficult. The process required by IC 36-1.5 is onerous and likely to hinder further consolidations.*

The process set up for consolidation requires many steps, beginning with an initiating resolution by one legislative body or a citizen petition. In the case of a citizen petition, the legislative body must act upon the petition. The legislative body may decline to participate in the reorganization and the process stops. If the initial legislative body adopts a resolution, it is forwarded to the other legislative bodies named in the proposed reorganization. The other legislative bodies may reject, accept, or amend the resolution. The consolidation moves forward when all legislative bodies adopt the same resolution. If they do not adopt the same resolution, the process stops. Upon agreement, the participating local governments establish a reorganization committee. The reorganization committee has one year to complete a reorganization plan. Each legislative body may adopt, reject, or amend the plan by resolution. If rejected, the reorganization committee must submit a new plan within 30 days. If amended, all legislative bodies must pass the amended plan by resolution. Adoption requires a public hearing and two readings. If all legislative bodies included have not adopted a resolution within one year after the reorganization plan is presented, the reorganization committee must meet and adopt a final plan. The legislative bodies must then adopt a resolution approving or rejecting the plan. Failure to adopt a resolution within a month is considered to be approved. If any legislative body rejects the plan, the citizens of that local government may petition to put the rejected plan on the ballot. In cases when all legislative bodies have approved the reorganization plan and/or when citizens have petitioned to overturn the rejection of the plan, the plan is put on the ballot.

Experience around the country has shown that local government consolidation is inherently difficult to achieve. As is apparent from the brief description above, the process required by IC 36-1.5 involves a significant number of steps and significant work to successfully navigate. As a practical matter, successful ballot initiatives will require significant additional effort to educate the voting public about the consolidation plan. To date, only seven sets of communities are known to have considered using or to have used IC 36-1.5. It is likely that many additional communities have and will continue to be deterred by the extensive process.

4. The statute is biased toward new consolidation efforts rather than facilitating existing efforts.

A local committee completed a proposal for city-county consolidation for Evansville and Vanderburgh County in July 2005. The mayor, city council, county board of commissioners, and the county council all provided appointments to the committee. In 2006, the committee and other local leaders in Evansville/Vanderburgh County sought legislation to enable a local referendum on the implementation of the plan. Discussions about consolidation also were occurring in other parts of the state, including in Fort Wayne and Allen County.

IC 36-1.5 passed in 2006, enabling local government consolidation generally. The statute was structured for new consolidation efforts, rather than to facilitate the completion of existing efforts. As written, Evansville and Vanderburgh County will have to complete the entire statutory process including convening a “new” reorganization committee to propose the previous plan or a new one. The additional effort required to repeat much of the process that has already occurred adds an additional impediment to consolidation for those communities.

5. Rejection thresholds (super majority) and potential countywide approval make success more difficult.

As outlined in IC 36-1.5-4-30 and IC 36-1.5-4-32, the reorganization of a city and a county must be approved by the entire county at the percentage provided in the reorganization plan. The participating local governments also may establish a separate rejection threshold that must be met for the participating municipality and the remainder of the county. In this circumstance, the reorganization must be approved for three geographies. Participating units also are allowed to require a super majority in each case. In all other reorganizations under this chapter, the electorate of each participating unit must give approval by majority vote. When one unit overlaps another, the approval for the larger unit includes only those voters not located within the smaller unit. No approval is required of the combined electorate.

6. Local legislative bodies can stop the process in spite of an initiating petition by citizens.

Currently, a legislative body can reject a petition for reorganization in spite of a citizen petition. A receiving body can also reject a petition received by an initiating legislative body. No mechanism exists to compel the process to move forward at this point. Once the participating legislative bodies have adopted a similar resolution and a reorganization plan is presented, if necessary, citizens can compel a public question on the plan. As mentioned above, the Indiana Commission on Local Government Reform recommended that citizens be given the ability to compel consolidation.

7. Local officials can deter the process through the appointment of hostile committee members.

Elected officials have control over the makeup of the reorganization committee. The legislative bodies may set their own structure if adopted by all participating units. The default structure is the appointment of three individuals by the local government executive, only two of which can be from one political party. The selection of appointments in either case can be used to deter the process, in some cases, in spite of the direct request of citizens to begin the process. Requiring that appointments be made by an external entity, such as the circuit court, or for appointments made by the both the executive and legislative bodies could help to mitigate attempts to deter the process through hostile appointments.

8. *The statutory and legal limits of the structural and service flexibility provided by IC 36-1.5 are unclear.*

The legislative intent expressed in IC 36-1.5 is to provide significant flexibility in structuring consolidated units. IC 36-1.5-1 includes language that the article should be “liberally construed,” that the article is “controlling” over conflicting statutes, and that the power granted by this article may be exercised without compliance with other statutes or rules. In addition, consolidating governments are given significant flexibility about the services that they select to provide upon consolidation (IC 36-1.5-4-18(b)(5)). Additional clarity is needed about which issues are considered to be a function of local government structure per IC 36-1.5 and which are excluded.

The desire to provide maximum flexibility to allow local governments to apply creative solutions is admirable. However, it seems unlikely that the true intent of IC 36-1.5 was to release consolidated local governments from all statutes and rules not specified in IC 36-1.5. The operations of local government are varied and, at times, quite complex. Local government currently exists under a plethora of statutory and administrative requirements regarding governance and operations. These requirements have been interpreted over time by the courts. Without limits, the ability to establish practices outside current statute and experience has the potential to create a chaotic system that local and state government will struggle to manage and citizens will struggle to understand and hold accountable. Taken literally and to the extreme, local governments could choose not to perform critical functions. For example, a newly consolidated municipal government including a previous county government could choose not to assess property, record deeds, etc.

As yet, the new law remains untested in the courts. Without additional statutory guidance, local units will not be able to trust the flexibility they have been provided. Local governments fear that they will face litigation seeking to enforce previous statutory, administrative, or legal directives without any certainty of outcome. For example, during the reorganization deliberations for Zionsville/Eagle Township/Union Township, the reorganization committee desired to add additional members to the plan commission and the parks board to provide more representation to the geographically-expanded local government. Several members of the reorganization committee indicated that such a decision likely would result in litigation from a future developer who was denied a development by the newly construed plan commission. A wealth of case law exists on the legal construction of plan commission membership. To resolve the issue, the reorganization committee recommended that the expanded local government seek legislation specifically allowing the expanded membership for the plan commission and the park board. Such legislation was proposed in 2008 as an amendment to SB 297. The bill did not pass.

9. *When the participating local governments are of different types (e.g., township and municipality), a conflict exists regarding how non-participating units are treated in the reorganization process.*

IC 36-1.5-4-1 (3) indicates that “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.” IC 36-1.5-4-38 indicates that “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.”

In cases when the participating local governments are not of the same type, these two provisions present a conflict. For example, counties and municipalities have the power to provide similar services in some cases. County government typically has authority for planning and zoning over the unincorporated territory. If a township and a municipality contained within it are consolidated, extending the municipality's authority over planning and zoning to the township boundary would seem to be in accordance with IC 36-1.5-4-38, but potentially usurp the powers reserved by IC 36-1.5-4-38 to the county as a non-participating local government. The potential for this conflict would seem to rise as the disparity between the boundaries of the participating units increases. Statutory clarity about the treatment of local governments external to a consolidation is needed to avoid future conflicts.

10. Limited detail is provided about the ability of consolidated local governments to establish differential service and tax rates within a single local government.

IC 36-1.5-4-18 requires the reorganization plan to include a description of the services to be provided by the reorganized local government and the service areas for those services. A general ability to establish a differentiated structure of services and taxes/fees does not exist explicitly within the current enabling legislation for local governments. As such, no explicit process exists for adjusting the boundaries of those service districts over time. To be effective and provide accountability over time, IC 36-1.5 or another statute should provide additional guidance on this issue.

11. The potential loss of fiscal resources may deter future consolidations.

IC 36-1.5-3 is structured to provide tax relief upon consolidation. It provides the Department of Local Government Finance the power to adjust the resulting unit's maximum permissible levy, maximum permissible tax rates, and budgets. The statute limits the reduction to not more than 50 percent of the savings realized in the first year. This provision creates significant uncertainty or a potentially negative fiscal outcome. As a result, units may choose to use IC 36-1-7 (Interlocal Cooperation) because it provides access to more fiscal resources or choose not to embark on consolidation at all. Allowing the preservation of current fiscal resources would remove this current disincentive.

12. It is unclear how new local governments will fit into existing systems, such as tax distribution formulas.

Over time, issues may arise in current statute about how to treat consolidated units. For example, some concern has been expressed about how new units will fit into tax distribution formulas, for example. To the extent that they can be anticipated, it would be helpful to address them immediately. As a practical matter, some issues also will have to be addressed over time as they become apparent. The experience of Zionsville, as their boundaries expand to include Eagle and Union Townships, will be instructive in this regard.

13. Explicit incentives are needed to encourage the use of this tool and others that are available to accomplish local unit consolidation and service collaboration.

As mentioned above, a number of natural and statutory impediments exist to local government consolidation. Across the country, full consolidation of local governments typically has been very difficult to achieve. IC 36-1.5 establishes an onerous process and creates a number of uncertainties that reduce the likelihood that additional communities can or will consolidate.

Incentives that provide explicit rewards to local governments for consolidation are needed in addition to reducing the statutory impediments to consolidation. The most obvious incentives involve providing the ability to retain or increase funding. One such incentive would be to allow consolidating units to keep anticipated savings to invest in additional local services. Additional incentives may include enhanced home rule power and reduced regulation.

14. The potential for legislative action on the recommendations of the Commission on Local Government Reform creates significant uncertainty for communities considering consolidation or service arrangements under IC 36-1.5.

The Commission on Local Government Reform recommended significant changes in the structure of local government. Those recommendations were considered during the 2008 legislative session and are likely to be considered for a number of years to come. Preparation of the reorganization plan under IC 36-1.5 involves a significant amount of work. Understandably, communities considering consolidation and their committee appointees are concerned about the significant investment of time that can be negated by the actions of the General Assembly.

Appendix A

IC 6-1.1-17-3.5 and IC 6-1.1-17-20

IC 6-1.1-17-3.5

County fiscal body nonbinding review of civil taxing units' budgets, tax rates, and tax levies; recommendation by county fiscal body; comparisons; department of local government finance

Sec. 3.5. (a) This section does not apply to civil taxing units located in a county in which a county board of tax adjustment reviews budgets, tax rates, and tax levies. This section does not apply to a civil taxing unit that has its proposed budget and proposed property tax levy approved under IC 6-1.1-17-20 or IC 36-3-6-9.

(b) This section applies to a civil taxing unit other than a county. If a civil taxing unit will impose property taxes due and payable in the ensuing calendar year, the civil taxing unit shall file with the fiscal body of the county in which the civil taxing unit is located:

(1) a statement of the proposed or estimated tax rate and tax levy for the civil taxing unit for the ensuing budget year; and

(2) a copy of the civil taxing unit's proposed budget for the ensuing budget year.

(c) In the case of a civil taxing unit located in more than one (1) county, the civil taxing unit shall file the information under subsection (b) with the fiscal body of the county in which the greatest part of the civil taxing unit's net assessed valuation is located.

(d) A civil taxing unit must file the information under subsection (b) at least fifteen (15) days before the civil taxing unit fixes its tax rate and tax levy and adopts its budget under this chapter.

(e) A county fiscal body shall:

(1) review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body under this section; and

(2) issue a nonbinding recommendation to a civil taxing unit regarding the civil taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

(f) The recommendation under subsection (e) must include a comparison of any increase in the civil taxing unit's budget or tax levy to:

(1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(2) increases in the budgets and tax levies of other civil taxing units in the county.

(g) The department of local government finance must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.

As added by P.L.146-2008, SEC.148.

IC 6-1.1-17-20

Appointed governing boards; proposed property tax levy; approval

Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the percentage increase in the proposed budget for the taxing unit for the ensuing calendar year is more than the result of:

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the ensuing calendar year; minus

(B) one (1).

(b) As used in this section, “taxing unit” has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or
(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) This subsection does not apply to a public library. If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or
(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

The governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.


(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.


(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

As added by P.L.25-1995, SEC.26. Amended by P.L.1-2004, SEC.19 and P.L.23-2004, SEC.20; P.L.199-2005, SEC.13; P.L.227-2005, SEC.5; P.L.1-2006, SEC.136; P.L.146-2008, SEC.163.

Appendix B

Department of Local Government Finance Presentation on Local Fiscal Review (October 2, 2008)

	<h1>County Council Budget Review Process</h1>
<h2>Department of Local Government Finance</h2>	
<p>Dan Jones, Assistant Director Budget Division October 2, 2008</p>	
<small>Indiana Department of Local Government Finance</small>	

	<h1>Background</h1>
<ul style="list-style-type: none">– HEA 1001 of 2008 requires that governmental subdivisions that expect to levy a property tax in 2009 must submit their proposed budget to the county council to receive a non-binding recommendation<ul style="list-style-type: none">■ Requirement does not apply to county governments or schools■ Per IC 6-1.1-17-3.5 (Effective July 1, 2008)	
<small>Indiana Department of Local Government Finance</small>	

Non-Elected Boards

- Governing bodies of taxing units comprised of a majority of non-elected officials have special conditions
 - These boards are required to submit budgets to elected council for approval if budget increases more than AVGQ per I.C. 6-1.1-17-20
 - Budget is submitted to county council if increase is less than AVGQ

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Required Information

- Civil taxing unit must file with the county fiscal body where unit is located (or county with most AV)
- Unit must file a statement of proposed rate and levy for following year and
- Copy of proposed budget for ensuing year

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Required Information

- Taxing unit must file the information with the county fiscal body (council) "at least" fifteen days before the taxing unit adopts the budget
 - 15 day period is to allow county council sufficient time to review budget, rates, and levies before the rates and levies are "fixed" by the unit

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Fiscal Body's Responsibility

- A county fiscal body "shall":
 - Review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body under this section, and
 - Issue a nonbinding recommendation to a civil taxing unit regarding the civil taxing unit's proposed or estimated rate or levy or proposed budget

Indiana Department of Local Government Finance

Fiscal Body's Recommendation

- Recommendation must include a comparison of any increase in budget or levy to:
 - Average increase in the county and state non-farm personal income for preceding 6 years and
 - Increases in budgets and levies of other taxing units in the county

Indiana Department of Local Government Finance

DLGF's Role

- DLGF must provide each county council with most recent information concerning Indiana's and the county's non-farm personal income
 - DLGF receives information from State Budget Agency. Source of data is Bureau of Economic Analysis

Indiana Department of Local Government Finance

DLGF's Role

- DLGF must provide each county council with the most recent information concerning Indiana's and the county's non-farm personal income
 - DLGF receives the information from the State Budget Agency. Source of data is Bureau of Economic Analysis

Optional Form

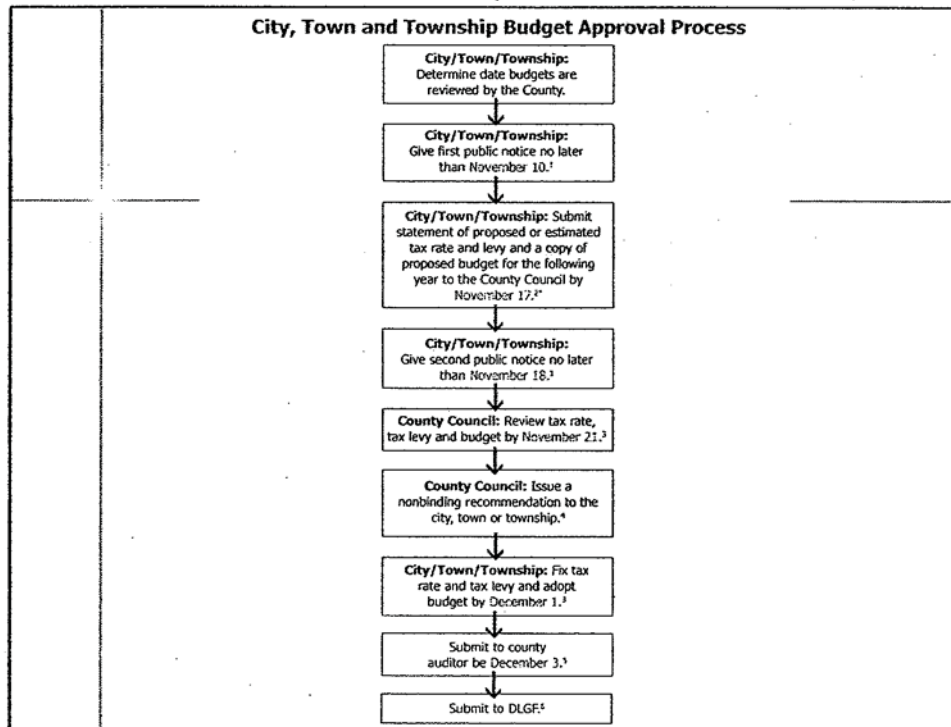
- County councils requested the DLGF create a form for them to use for reviewing budgets
 - Use of form is entirely optional
 - Prepared in Excel – a standard program
 - Form and instructions are online at www.in.gov/dlgf/6800.htm
 - Forms contain all necessary information

Results

- Most units appreciated the availability of the form and the data
- Users experienced some technical difficulties
- Issues to resolve for next year include:
 - How to submit forms?
 - Who receives forms?
 - How will DLGF record the forms & decisions?

Impact on Budget Approval Process

- Council review adds another step in the budget review process
 - Units submit budget to council before budgets are approved by fiscal body
 - County council recommendation is to the fiscal body of civil taxing unit
 - Ideally, unit then incorporates recommendation into the budget and adopts budget, rates, and levies



	<h2 align="center">Final Actions on Budgets</h2>
	<ul style="list-style-type: none"> ■ After fiscal bodies adopt budget, the budget is forwarded to Tax Adjustment Board or County Auditor to enforce maximum levy limits ■ All rates are advertised and then budgets are submitted to DLGF ■ DLGF revises, reduces, or approves budgets and certifies rates and levies <p align="center">Indiana Department of Local Government Finance</p>

Final Actions on Budgets

- Last date for adoption of 2009 budgets moved to Dec. 1st
- Provides units with more time to review and formulate budgets as well as to comply with new requirements
- Also allows units to incorporate new information regarding AV's

Results

- DLGF will begin budgets when county has complied with new requirements
- DLGF will use county council recommendations when reviewing budgets to guide actions on rates and levies
- Budgets will receive more oversight by elected officials at county level
- County has more ability to control property tax rates and levies
- Stronger taxpayer protection

Indiana Department of Local Government Finance



For More Information

- Contact Dan Jones
 - 317-232-0651
 - Djones@dlgf.in.gov
- News releases from the DLGF
 - www.in.gov/dlgf
- Contact the DLGF
 - 317.232.3777
 - propertytaxinfo@dlgf.in.gov

Indiana Department of Local Government Finance

Appendix C

IC 36-1.5 Government Modernization

IC 36-1.5

ARTICLE 1.5. GOVERNMENT MODERNIZATION

IC 36-1.5-1

Chapter 1. General Provisions

IC 36-1.5-1-1

Purpose

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-2

Authority for certain actions

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-3

Other laws, procedures, and requirements

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-4

Exercise of power to reorganize without complying with other laws

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-5**Liberal construction**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-6**Provisions of this article inconsistent with other laws**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-7**Actions under other laws not prohibited**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-8**Combined resolutions**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-9**Political subdivisions and reorganization committees subject to open door law and public records law**

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).

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2**Chapter 2. Definitions****IC 36-1.5-2-1****Application of 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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-2**Application of definitions**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-3**"Plan of reorganization"**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-4**"Political subdivision"**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-5**"Reorganization"**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-6**"Reorganization committee"**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-7**"Reorganized political subdivision"**

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-8**"Reorganizing political subdivision"**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3**Chapter 3. Adjustment of Maximum Permissible Levies, Tax Rates, and Budgets****IC 36-1.5-3-1****Submission of ordinance or resolution to department of local government finance**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-2**Actions by 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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-3**Petition by political subdivision for review of final determination**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-4

Adjustment of maximum property tax levies, property tax rates, and budgets

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-5

Savings by political subdivision through reorganization

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4

Chapter 4. Reorganization by Referendum

IC 36-1.5-4-1

Types of reorganizations authorized; political subdivisions not participating in reorganization

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-2

Adjacent political subdivisions

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-3

Types of reorganization

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-4

Powers of political subdivisions in an approved reorganization

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-5**Effective date of reorganization**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-6**Results of reorganization**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-7**Budgets, rates, and levies; election districts**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-8**Authority of department of local government finance to prescribe forms**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-9**Initiation of reorganization**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-10**Initiation of reorganization by legislative body**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-11**Initiation of reorganization by voters**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-12**Action by legislative body on proposed reorganization; hearing**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-13**Action by legislative body receiving resolution on proposed reorganization from another political subdivision; hearing**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-14

Revision of resolutions

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-15

Appointment of reorganization committee

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-16

Members of reorganization committee

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-17

Powers of reorganization committee

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-18

Preparation of reorganization plan; required elements

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-19

Consideration of reorganization plan by legislative bodies

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-20

Actions by legislative bodies on reorganization plan

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-21

Modifications to reorganization plan

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-22

Action by legislative bodies on revised reorganization plan

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-23**Certification by legislative bodies of final action**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-23.5**Failure to adopt reorganization plan; petition requesting a public question**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-24**Filing of reorganization plan**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-25

Recording of certifications and reorganization plan by county recorder

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-26

Notification of county election board upon receipt of certifications from all reorganizing political subdivisions; public question

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-27

County election board placing public question on ballot

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-28

Form of public question

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?"

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-29

Application of IC 3

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-30

Certification by circuit court clerk of results of public question

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

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-31

Recording of certification from circuit court clerk

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-32

Approval of public question

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-33

Termination of reorganization if public question not approved

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-34

Reorganization according to reorganization plan if public question approved

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-35

Appointment of town precinct boards

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-36

Initial election of officials of reorganized political subdivision

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-37

Change of boundaries

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-38

Powers of reorganized political subdivision

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-39**Exercise of powers of reorganizing political subdivisions**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-40**Debt; pension obligations**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-41**Pension fund membership**

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 5-10.4-1-12) 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.

As added by P.L.186-2006, SEC.4. Amended by P.L.2-2007, SEC.383.

IC 36-1.5-4-42

Transfer of functions of elected office

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-43

Termination of reorganization; restoration of reorganizing political subdivisions

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5

Chapter 5. Cooperative Agreements and Transfers of Responsibilities

IC 36-1.5-5-1

Cooperative agreements; method to enter cooperative agreements

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-2

Required elements of cooperative agreements

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-3

Transfer of functions of employee, department, or elected office

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-4

Sharing of services of employees

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-5

Appropriation and pledge of revenues

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-6

Limit on actions under cooperative agreement

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-7**Effective date of cooperative agreement transferring functions of elected office**

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.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-8**Adjustment of property tax levies, property tax rates, and budgets**

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.

As added by P.L.186-2006, SEC.4.



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