



January 15, 2010

SENATE BILL No. 240

DIGEST OF SB 240 (Updated January 13, 2010 5:57 pm - DI 87)

Citations Affected: IC 3-5; IC 3-10; IC 3-11; IC 5-11; IC 6-1.1; IC 13-11; IC 36-1; IC 36-1.5; IC 36-6.

Synopsis: Township government. Specifies that in each county after December 31, 2012: (1) the county fiscal body is the fiscal body and legislative body of each township in the county; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds. Provides that when formulating an annual budget, a township or (after December 31, 2012) the county fiscal body, must consider the ending balance that will remain in each township fund relative to: (1) the budgeted expenditures from the fund; (2) the fund balance that must be maintained by the township due to delayed property tax collections; and (3) the amount of tax anticipation notes or warrants or other obligations incurred by the township due to delayed property tax collections. Provides that if the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) determines that the ending balance in a township fund is excessive (after considering certain specified factors), the township board or county fiscal body shall transfer the excessive amount to the township's levy excess fund. Specifies that for township budgets adopted for 2011, 2012, and 2013, the total amount appropriated by a township board for a particular year may not exceed the result of: (1) the total amount appropriated by the township board for the previous year; multiplied by (2) the assessed value growth quotient applicable to the township for the particular year. Provides that if a township
(Continued next page)

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Effective: July 1, 2010.

Lawson C, Gard

January 11, 2010, read first time and referred to Committee on Local Government.
January 14, 2010, amended, reported favorably — Do Pass.

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board determines after a public hearing that the township cannot carry out its governmental functions for a year under these appropriation limitations, the township board, after approval by the township executive, may appeal to the department of local government finance for relief from the appropriation limitations for the year. After December 31, 2012, requires the county fiscal body to consider with regard to a cumulative building fund or capital improvement fund, the township's capital improvement plan. Requires the department of local government finance to consider those issues when reviewing a township's budget, tax rate, and tax levy. Provides that after December 31, 2012, a township may only collect property taxes for a capital improvement fund in a particular year, if the township trustee prepares and the county fiscal body approves a proposed or amended capital improvement plan in the immediately preceding year. Provides that if a township reorganizes with at least one other township, and the resulting new political subdivision is not a city or town, after December 31, 2012, the county fiscal body is the fiscal body of the new political subdivision. Prohibits a relative of a township officer or employee from being employed by the township. Provides that a township employee who marries another township employee or officer may not continue to be employed by the township. Specifies that until January 1, 2012, a township employee is not required by these provisions to be terminated or reassigned from any position held by that individual before July 1, 2010. Prohibits a township from entering into a contract or renewing a contract with: (1) an individual to provide goods or services to the township, if the individual is a relative of the township trustee; or (2) a business entity to provide goods or services, if a relative of the township trustee has an ownership interest in the business entity. Requires the state board of accounts to annually prepare a report that includes certain information regarding each township. Requires the report to be submitted to the executive director of the legislative services agency and to county councils. Specifies that each township office must include the address, phone number, and regular office hours (if any) of the township office in at least one local telephone directory. Requires a public meeting or a public hearing of a township official or governing body to be held in a public place. Requires a township trustee's annual report to list separately each expenditure that is made to reimburse the township trustee for the township trustee's use of tangible property (real and personal property) for public business, including any reimbursements made for the use of a private residence, personal telephone, or personal vehicle for public business.

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January 15, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 240

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

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

- 1 SECTION 1. IC 3-5-2-25 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2010]: Sec. 25. "Fiscal body" means:
- 3 (1) county council, for a county not having a consolidated city;
- 4 (2) city-county council, for a consolidated city or county having
- 5 a consolidated city;
- 6 (3) common council, for a second or third class city;
- 7 (4) town council, for a town;
- 8 (5) ~~township board~~; for a township:
- 9 (A) **the township board, before January 1, 2013; and**
- 10 (B) **the county fiscal body after December 31, 2012;** or
- 11 (6) governing body or budget approval body, for any other
- 12 political subdivision.
- 13 SECTION 2. IC 3-10-1-19, AS AMENDED BY P.L.146-2008,
- 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2010]: Sec. 19. (a) The ballot for a primary election shall be

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1 printed in substantially the following form for all the offices for which
2 candidates have qualified under IC 3-8:

3 OFFICIAL PRIMARY BALLOT

4 _____ Party

5 For paper ballots, print: To vote for a person, make a voting mark
6 (X or ✓) on or in the box before the person's name in the proper
7 column. For optical scan ballots, print: To vote for a person, darken or
8 shade in the circle, oval, or square (or draw a line to connect the arrow)
9 that precedes the person's name in the proper column. For optical scan
10 ballots that do not contain a candidate's name, print: To vote for a
11 person, darken or shade in the oval that precedes the number assigned
12 to the person's name in the proper column. For electronic voting
13 systems, print: To vote for a person, touch the screen (or press the
14 button) in the location indicated.

15 Vote for one (1) only

16 Representative in Congress

17 (1) AB _____

18 (2) CD _____

19 (3) EF _____

20 (4) GH _____

21 (b) The offices with candidates for nomination shall be placed on
22 the primary election ballot in the following order:

23 (1) Federal and state offices:

24 (A) President of the United States.

25 (B) United States Senator.

26 (C) Governor.

27 (D) United States Representative.

28 (2) Legislative offices:

29 (A) State senator.

30 (B) State representative.

31 (3) Circuit offices and county judicial offices:

32 (A) Judge of the circuit court, and unless otherwise specified
33 under IC 33, with each division separate if there is more than
34 one (1) judge of the circuit court.

35 (B) Judge of the superior court, and unless otherwise specified
36 under IC 33, with each division separate if there is more than
37 one (1) judge of the superior court.

38 (C) Judge of the probate court.

39 (D) Judge of the county court, with each division separate, as
40 required by IC 33-30-3-3.

41 (E) Prosecuting attorney.

42 (F) Circuit court clerk.

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- 1 (4) County offices:
- 2 (A) County auditor.
- 3 (B) County recorder.
- 4 (C) County treasurer.
- 5 (D) County sheriff.
- 6 (E) County coroner.
- 7 (F) County surveyor.
- 8 (G) County assessor.
- 9 (H) County commissioner.
- 10 (I) County council member.
- 11 (5) Township offices:
- 12 (A) Township assessor (only in a township referred to in
- 13 IC 36-6-5-1(d)).
- 14 (B) Township trustee.
- 15 (C) Township board member. **This clause does not apply to**
- 16 **elections in 2012 and thereafter.**
- 17 (D) Judge of the small claims court.
- 18 (E) Constable of the small claims court.
- 19 (6) City offices:
- 20 (A) Mayor.
- 21 (B) Clerk or clerk-treasurer.
- 22 (C) Judge of the city court.
- 23 (D) City-county council member or common council member.
- 24 (7) Town offices:
- 25 (A) Clerk-treasurer.
- 26 (B) Judge of the town court.
- 27 (C) Town council member.
- 28 (c) The political party offices with candidates for election shall be
- 29 placed on the primary election ballot in the following order after the
- 30 offices described in subsection (b):
- 31 (1) Precinct committeeman.
- 32 (2) State convention delegate.
- 33 (d) The following offices and public questions shall be placed on the
- 34 primary election ballot in the following order after the offices described
- 35 in subsection (c):
- 36 (1) School board offices to be elected at the primary election.
- 37 (2) Other local offices to be elected at the primary election.
- 38 (3) Local public questions.
- 39 (e) The offices and public questions described in subsection (d)
- 40 shall be placed:
- 41 (1) in a separate column on the ballot if voting is by paper ballot;
- 42 (2) after the offices described in subsection (c) in the form

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1 specified in IC 3-11-13-11 if voting is by ballot card; or
 2 (3) either:
 3 (A) on a separate screen for each office or public question; or
 4 (B) after the offices described in subsection (c) in the form
 5 specified in IC 3-11-14-3.5;
 6 if voting is by an electronic voting system.

7 (f) A public question shall be placed on the primary election ballot
 8 in the following form:

9 (The explanatory text for the public question,
 10 if required by law.)

11 "Shall (insert public question)?"

12 YES

13 NO

14 SECTION 3. IC 3-10-2-13, AS AMENDED BY P.L.146-2008,
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2010]: Sec. 13. (a) The following public officials shall be
 17 elected at the general election before their terms of office expire and
 18 every four (4) years thereafter:

- 19 (1) Clerk of the circuit court.
- 20 (2) County auditor.
- 21 (3) County recorder.
- 22 (4) County treasurer.
- 23 (5) County sheriff.
- 24 (6) County coroner.
- 25 (7) County surveyor.
- 26 (8) County assessor.
- 27 (9) County commissioner.
- 28 (10) County council member.
- 29 (11) Township trustee.
- 30 (12) Township board member. **This subdivision does not apply**
 31 **to elections in 2012 and thereafter.**
- 32 (13) Township assessor (only in a township referred to in
 33 IC 36-6-5-1(d)).
- 34 (14) Judge of a small claims court.
- 35 (15) Constable of a small claims court.

36 (b) **Notwithstanding subsection (a), an individual elected as a**
 37 **township board member in 2010 shall serve a two (2) year term.**
 38 **The term of an individual elected as a township board member in**
 39 **2010 expires January 1, 2013.**

40 SECTION 4. IC 3-11-2-12, AS AMENDED BY P.L.146-2008,
 41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2010]: Sec. 12. The following offices shall be placed on the

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- 1 general election ballot in the following order:
- 2 (1) Federal and state offices:
- 3 (A) President and Vice President of the United States.
- 4 (B) United States Senator.
- 5 (C) Governor and lieutenant governor.
- 6 (D) Secretary of state.
- 7 (E) Auditor of state.
- 8 (F) Treasurer of state.
- 9 (G) Attorney general.
- 10 (H) Superintendent of public instruction.
- 11 (I) United States Representative.
- 12 (2) Legislative offices:
- 13 (A) State senator.
- 14 (B) State representative.
- 15 (3) Circuit offices and county judicial offices:
- 16 (A) Judge of the circuit court, and unless otherwise specified
- 17 under IC 33, with each division separate if there is more than
- 18 one (1) judge of the circuit court.
- 19 (B) Judge of the superior court, and unless otherwise specified
- 20 under IC 33, with each division separate if there is more than
- 21 one (1) judge of the superior court.
- 22 (C) Judge of the probate court.
- 23 (D) Judge of the county court, with each division separate, as
- 24 required by IC 33-30-3-3.
- 25 (E) Prosecuting attorney.
- 26 (F) Clerk of the circuit court.
- 27 (4) County offices:
- 28 (A) County auditor.
- 29 (B) County recorder.
- 30 (C) County treasurer.
- 31 (D) County sheriff.
- 32 (E) County coroner.
- 33 (F) County surveyor.
- 34 (G) County assessor.
- 35 (H) County commissioner.
- 36 (I) County council member.
- 37 (5) Township offices:
- 38 (A) Township assessor (only in a township referred to in
- 39 IC 36-6-5-1(d)).
- 40 (B) Township trustee.
- 41 (C) Township board member. **This clause does not apply to**
- 42 **elections in 2012 and thereafter.**

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- 1 (D) Judge of the small claims court.
- 2 (E) Constable of the small claims court.
- 3 (6) City offices:
- 4 (A) Mayor.
- 5 (B) Clerk or clerk-treasurer.
- 6 (C) Judge of the city court.
- 7 (D) City-county council member or common council member.
- 8 (7) Town offices:
- 9 (A) Clerk-treasurer.
- 10 (B) Judge of the town court.
- 11 (C) Town council member.

12 SECTION 5. IC 5-11-1-27 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2010]: **Sec. 27. (a) The state board of accounts shall each year
 15 prepare a report that includes the following information for each
 16 township for the preceding calendar year:**

- 17 (1) The population of the township.
- 18 (2) The budget, property tax levies, and property tax rates
 19 adopted by the township and approved by the department of
 20 local government finance.
- 21 (3) The assessed valuation in the township used to determine
 22 property taxes first due and payable in the preceding calendar
 23 year.
- 24 (4) The balance in each township fund as of the end of the
 25 preceding calendar year.
- 26 (5) A summary of the township assistance information
 27 submitted by the township trustee under IC 12-20-28-3.
- 28 (6) A summary of any statutory compliance issues or
 29 exceptions noted by the state board of accounts in its
 30 examination report for the township for the preceding
 31 calendar year.
- 32 (7) A description of any interlocal agreements in effect
 33 concerning the township's functions and duties.
- 34 (8) A description of any resolutions or petitions concerning
 35 the township that were adopted or submitted under IC 36-1.5
 36 (government modernization) during the preceding calendar
 37 year.
- 38 (9) A description of the property owned or leased by the
 39 township.
- 40 (b) To the extent that the information required by subsection (a)
 41 has not been previously submitted to or certified by the state board
 42 of accounts or the department of local government finance, a

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1 township shall submit the information to the state board of
2 accounts on a schedule established by the state board of accounts.

3 (c) The state board of accounts shall do the following before
4 July 1 of each year:

5 (1) Submit a copy of the report prepared under subsection (a)
6 to the executive director of the legislative services agency in
7 an electronic format under IC 5-14-6.

8 (2) Submit to the county council of each county a copy of the
9 information compiled in the report for each township within
10 the county.

11 SECTION 6. IC 6-1.1-17-2, AS AMENDED BY P.L.1-2006,
12 SECTION 135, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) When formulating an annual
14 budget estimate, the proper officers of a political subdivision shall
15 prepare an estimate of the amount of revenue which the political
16 subdivision will receive from the state for and during the budget year
17 for which the budget is being formulated. These estimated revenues
18 shall be shown in the budget estimate and shall be taken into
19 consideration in calculating the tax levy which is to be made for the
20 ensuing calendar year. However, this section does not apply to funds
21 to be received from the state or the federal government for:

22 (1) township assistance;

23 (2) unemployment relief;

24 (3) old age pensions; or

25 (4) other funds which may at any time be made available under
26 "The Economic Security Act" or under any other federal act
27 which provides for civil and public works projects.

28 (b) When formulating an annual budget estimate, the proper officers
29 of a political subdivision shall prepare an estimate of the amount of
30 revenue that the political subdivision will receive under a development
31 agreement (as defined in IC 36-1-8-9.5) for and during the budget year
32 for which the budget is being formulated. Revenue received under a
33 development agreement may not be used to reduce the political
34 subdivision's maximum levy under IC 6-1.1-18.5 but may be used at
35 the discretion of the political subdivision to reduce the property tax
36 levy of the political subdivision for a particular year.

37 (c) When formulating an annual budget estimate, the proper
38 officers of a township or (after December 31, 2012) the county
39 fiscal body shall consider the following:

40 (1) The ending balance that will remain in each township fund
41 relative to:

42 (A) the budgeted expenditures from the fund;

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**(B) the fund balance that must be maintained by the township on account of actual or anticipated delayed property tax billing, collection, or distribution; and
(C) the amount of tax anticipation notes or warrants or other obligations incurred by the township on account of delayed property tax billing, collection, or distribution.**

(2) Whether the ending balance remaining in each township fund is excessive and should be used by the township to reduce property tax levies. In determining whether an ending balance in a township fund is excessive, the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) shall consider the factors described in subdivision (1). If the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) determines under this subdivision that the ending balance in a township fund is excessive, the township board or county fiscal body shall transfer the excessive amount to the township's levy excess fund.

(3) After December 31, 2012, with regard to a township capital improvement fund or cumulative building fund, the township capital improvement plan prepared under IC 36-6-10.

SECTION 7. IC 6-1.1-17-3, AS AMENDED BY P.L.182-2009(ss), SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before September 10 of the calendar year.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may

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1 conduct the public hearing required under subsection (a):

2 (1) in any county of the solid waste management district; and

3 (2) in accordance with the annual notice of meetings published
4 under IC 13-21-5-2.

5 (c) The trustee of each township in the county **or (after December**
6 **31, 2012) the county fiscal body** shall estimate the amount necessary
7 to meet the cost of township assistance in the township for the ensuing
8 calendar year. The township board **or (after December 31, 2012) the**
9 **county fiscal body** shall adopt with the township budget a tax rate
10 sufficient to meet the estimated cost of township assistance. The taxes
11 collected as a result of the tax rate adopted under this subsection are
12 credited to the township assistance fund.

13 (d) This subsection expires January 1, 2009. A county shall adopt
14 with the county budget and the department of local government finance
15 shall certify under section 16 of this chapter a tax rate sufficient to raise
16 the levy necessary to pay the following:

17 (1) The cost of child services (as defined in IC 12-19-7-1, **before**
18 **its repeal**) of the county payable from the family and children's
19 fund.

20 (2) The cost of children's psychiatric residential treatment
21 services (as defined in IC 12-19-7.5-1, **before its repeal**) of the
22 county payable from the children's psychiatric residential
23 treatment services fund.

24 A budget, tax rate, or tax levy adopted by a county fiscal body or
25 approved or modified by a county board of tax adjustment that is less
26 than the levy necessary to pay the costs described in subdivision (1) or
27 (2) shall not be treated as a final budget, tax rate, or tax levy under
28 section 11 of this chapter.

29 (e) **The following apply to township budgets adopted for 2011,**
30 **2012, and 2013:**

31 (1) **Except as provided in subdivision (2), the total amount**
32 **appropriated by a township board for a particular year**
33 **(including any additional appropriations made for that year)**
34 **may not exceed the result of:**

35 (A) **the total amount appropriated by the township board**
36 **for the previous year (including any additional**
37 **appropriations made for that year); multiplied by**

38 (B) **the assessed value growth quotient determined under**
39 **IC 6-1.1-18.5-2 and applicable to the township for the**
40 **particular year.**

41 (2) **If a township board determines after a public hearing that**
42 **the township cannot carry out its governmental functions for**

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1 a year under the appropriation limitations imposed by
 2 subdivision (1), the township board, after approval by the
 3 township executive, may appeal to the department of local
 4 government finance for relief from the appropriation
 5 limitations for the year. In the appeal, the township board
 6 must state that the township will be unable to carry out the
 7 governmental functions committed to it by law unless the
 8 township is given relief from the appropriation limits. The
 9 township board must support the appeal by reasonably
 10 detailed statements of fact. The department of local
 11 government finance shall review the merits of the township
 12 board's appeal. If the department of local government finance
 13 determines after reviewing the appeal that the township
 14 cannot carry out its governmental functions for a year under
 15 the appropriation limitations imposed by subdivision (1), the
 16 department of local government finance may grant relief from
 17 those appropriation limitations in the manner determined to
 18 be appropriate by the department of local government
 19 finance.

20 **This subsection expires January 1, 2014.**

21 SECTION 8. IC 6-1.1-17-16, AS AMENDED BY P.L.182-2009(ss),
 22 SECTION 123, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) Subject to the limitations
 24 and requirements prescribed in this section, the department of local
 25 government finance may revise, reduce, or increase a political
 26 subdivision's budget by fund, tax rate, or tax levy which the department
 27 reviews under section 8 or 10 of this chapter. **When reviewing a
 28 budget, tax rate, and tax levy of a township, the department of
 29 local government finance shall consider the issues described in
 30 section 2(c) of this chapter.**

31 (b) Subject to the limitations and requirements prescribed in this
 32 section, the department of local government finance may review,
 33 revise, reduce, or increase the budget by fund, tax rate, or tax levy of
 34 any of the political subdivisions whose tax rates compose the aggregate
 35 tax rate within a political subdivision whose budget, tax rate, or tax
 36 levy is the subject of an appeal initiated under this chapter.

37 (c) Except as provided in subsections (j) and (k), before the
 38 department of local government finance reviews, revises, reduces, or
 39 increases a political subdivision's budget by fund, tax rate, or tax levy
 40 under this section, the department must hold a public hearing on the
 41 budget, tax rate, and tax levy. The department of local government
 42 finance shall hold the hearing in the county in which the political

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1 subdivision is located. The department of local government finance
 2 may consider the budgets by fund, tax rates, and tax levies of several
 3 political subdivisions at the same public hearing. At least five (5) days
 4 before the date fixed for a public hearing, the department of local
 5 government finance shall give notice of the time and place of the
 6 hearing and of the budgets by fund, levies, and tax rates to be
 7 considered at the hearing. The department of local government finance
 8 shall publish the notice in two (2) newspapers of general circulation
 9 published in the county. However, if only one (1) newspaper of general
 10 circulation is published in the county, the department of local
 11 government finance shall publish the notice in that newspaper.

12 (d) Except as provided in subsection (i), IC 20-46, or IC 6-1.1-18.5,
 13 the department of local government finance may not increase a political
 14 subdivision's budget by fund, tax rate, or tax levy to an amount which
 15 exceeds the amount originally fixed by the political subdivision.
 16 However, if the department of local government finance determines
 17 that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the
 18 political subdivision, the maximum amount by which the department
 19 may increase the tax rate, tax levy, or budget is the amount originally
 20 fixed by the political subdivision, and not the amount that was
 21 incorrectly published or omitted in the notice described in
 22 IC 5-3-1-2.3(b). The department of local government finance shall give
 23 the political subdivision written notification specifying any revision,
 24 reduction, or increase the department proposes in a political
 25 subdivision's tax levy or tax rate. The political subdivision has ten (10)
 26 calendar days from the date the political subdivision receives the notice
 27 to provide a written response to the department of local government
 28 finance's Indianapolis office. The response may include budget
 29 reductions, reallocation of levies, a revision in the amount of
 30 miscellaneous revenues, and further review of any other item about
 31 which, in the view of the political subdivision, the department is in
 32 error. The department of local government finance shall consider the
 33 adjustments as specified in the political subdivision's response if the
 34 response is provided as required by this subsection and shall deliver a
 35 final decision to the political subdivision.

36 (e) The department of local government finance may not approve a
 37 levy for lease payments by a city, town, county, library, or school
 38 corporation if the lease payments are payable to a building corporation
 39 for use by the building corporation for debt service on bonds and if:
 40 (1) no bonds of the building corporation are outstanding; or
 41 (2) the building corporation has enough legally available funds on
 42 hand to redeem all outstanding bonds payable from the particular

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- 1 lease rental levy requested.
- 2 (f) The department of local government finance shall certify its
- 3 action to:
- 4 (1) the county auditor;
- 5 (2) the political subdivision if the department acts pursuant to an
- 6 appeal initiated by the political subdivision;
- 7 (3) the taxpayer that initiated an appeal under section 13 of this
- 8 chapter, or, if the appeal was initiated by multiple taxpayers, the
- 9 first ten (10) taxpayers whose names appear on the statement filed
- 10 to initiate the appeal; and
- 11 (4) a taxpayer that owns property that represents at least ten
- 12 percent (10%) of the taxable assessed valuation in the political
- 13 subdivision.
- 14 (g) The following may petition for judicial review of the final
- 15 determination of the department of local government finance under
- 16 subsection (f):
- 17 (1) If the department acts under an appeal initiated by a political
- 18 subdivision, the political subdivision.
- 19 (2) If the department:
- 20 (A) acts under an appeal initiated by one (1) or more taxpayers
- 21 under section 13 of this chapter; or
- 22 (B) fails to act on the appeal before the department certifies its
- 23 action under subsection (f);
- 24 a taxpayer who signed the statement filed to initiate the appeal.
- 25 (3) If the department acts under an appeal initiated by the county
- 26 auditor under section 14 of this chapter, the county auditor.
- 27 (4) A taxpayer that owns property that represents at least ten
- 28 percent (10%) of the taxable assessed valuation in the political
- 29 subdivision.
- 30 The petition must be filed in the tax court not more than forty-five (45)
- 31 days after the department certifies its action under subsection (f).
- 32 (h) The department of local government finance is expressly
- 33 directed to complete the duties assigned to it under this section not later
- 34 than February 15th of each year for taxes to be collected during that
- 35 year.
- 36 (i) Subject to the provisions of all applicable statutes, the
- 37 department of local government finance may increase a political
- 38 subdivision's tax levy to an amount that exceeds the amount originally
- 39 fixed by the political subdivision if the increase is:
- 40 (1) requested in writing by the officers of the political
- 41 subdivision;
- 42 (2) either:

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- 1 (A) based on information first obtained by the political
- 2 subdivision after the public hearing under section 3 of this
- 3 chapter; or
- 4 (B) results from an inadvertent mathematical error made in
- 5 determining the levy; and
- 6 (3) published by the political subdivision according to a notice
- 7 provided by the department.

8 (j) The department of local government finance shall annually
 9 review the budget by fund of each school corporation not later than
 10 April 1. The department of local government finance shall give the
 11 school corporation written notification specifying any revision,
 12 reduction, or increase the department proposes in the school
 13 corporation's budget by fund. A public hearing is not required in
 14 connection with this review of the budget.

15 (k) The department of local government finance may hold a hearing
 16 under subsection (c) only if the notice required in section 12 of this
 17 chapter is published at least ten (10) days before the date of the
 18 hearing.

19 SECTION 9. IC 13-11-2-86 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 86. "Fiscal body"
 21 means:

- 22 (1) the county council, for a county not having a consolidated city;
- 23 (2) the city-county council of a consolidated city and county;
- 24 (3) the common council of a city;
- 25 (4) the town council of a town;
- 26 (5) ~~the township board; or~~ for a township:
 - 27 (A) **the township board, before January 1, 2013; and**
 - 28 (B) **the county fiscal body, after December 31, 2012;** or
- 29 (6) the board of directors of a conservancy district.

30 SECTION 10. IC 36-1-2-6, AS AMENDED BY P.L.186-2006,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2010]: Sec. 6. "Fiscal body" means:

- 33 (1) county council, for a county not having a consolidated city;
- 34 (2) city-county council, for a consolidated city or county having
 35 a consolidated city;
- 36 (3) common council, for a city other than a consolidated city;
- 37 (4) town council, for a town;
- 38 (5) ~~township board;~~ for a township:
 - 39 (A) **the township board, before January 1, 2013; and**
 - 40 (B) **the county fiscal body, after December 31, 2012;**
- 41 (6) governing body or budget approval body, for any other
 42 political subdivision that has a governing body or budget approval

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1 body; or
 2 (7) chief executive officer of any other political subdivision that
 3 does not have a governing body or budget approval body.
 4 SECTION 11. IC 36-1-2-9, AS AMENDED BY P.L.186-2006,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2010]: Sec. 9. "Legislative body" means: ~~the~~
 7 (1) **the** board of county commissioners, for a county not subject
 8 to IC 36-2-3.5 or IC 36-3-1;
 9 (2) **the** county council, for a county subject to IC 36-2-3.5;
 10 (3) **the** city-county council, for a consolidated city or county
 11 having a consolidated city;
 12 (4) **the** common council, for a city other than a consolidated city;
 13 (5) **the** town council, for a town;
 14 (6) ~~township board~~; for a township:
 15 (A) **the township board, before January 1, 2013; and**
 16 (B) **the county fiscal body, after December 31, 2012;**
 17 (7) **the** governing body of any other political subdivision that has
 18 a governing body; or
 19 (8) **the** chief executive officer of any other political subdivision
 20 that does not have a governing body.
 21 SECTION 12. IC 36-1-8-17 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2010]: **Sec. 17. (a) Each township office must include the address,
 24 phone number, and regular office hours (if any) of the township
 25 office in at least one (1) local telephone directory.**
 26 **(b) A public meeting or a public hearing of a township official
 27 or governing body must be held in a public place.**
 28 SECTION 13. IC 36-1.5-1-10 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) This section applies if:**
 31 **(1) a township reorganizes under this article with one (1) or
 32 more townships; and**
 33 **(2) the new political subdivision that results from the
 34 reorganization is not a city or town.**
 35 **(b) After December 31, 2012, the fiscal body of the resulting new
 36 political subdivision is the county fiscal body, which shall review
 37 the budget of the new political subdivision under IC 6-1.1-17-2.**
 38 SECTION 14. IC 36-6-4-12 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) At the annual
 40 meeting of the township legislative body under IC 36-6-6-9 the
 41 executive shall present a complete report of all receipts and
 42 expenditures of the preceding calendar year, including the balance to

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1 the credit of each fund controlled by the executive. If the executive
2 controls any money that is not included in a particular fund, then the
3 executive shall state all the facts concerning that money in the report.

4 (b) Each item of expenditure must be accompanied by the verified
5 voucher of the person to whom the sum was paid, stating:

- 6 (1) why the payment was made;
- 7 (2) that the receipt is for the exact sum received;
- 8 (3) that no part of the sum has been retained by the executive; and
- 9 (4) that no part of the sum has been or is to be returned to the
10 executive or any other person.

11 The executive may administer oaths to persons giving these receipts.

12 (c) **The report must separately list each expenditure that is**
13 **made to reimburse the executive for the executive's use of tangible**
14 **property (as defined in IC 6-1.1-1-19) for public business, including**
15 **any reimbursements made for the executive's use of a private**
16 **residence, a personal telephone, or a personal vehicle for public**
17 **business. As used in this section, "private residence" means a place**
18 **that is not a public place.**

19 (d) The executive shall swear or affirm that:

- 20 (1) the report shows all sums received by ~~him~~; **the executive**;
- 21 (2) the expenditures credited have been fully paid in the sums
22 stated, without express or implied agreement that any part of the
23 sums is to be retained by or returned to the executive or any other
24 person; and
- 25 (3) the executive has received no money or other property in
26 consideration of any contract entered into on behalf of the
27 township.

28 (e) Within ten (10) days after the legislative body's action under
29 IC 36-6-6-9, the executive shall file a copy of the report and its
30 accompanying vouchers, as adopted by the legislative body, in the
31 county auditor's office. The legislative body may, for the benefit of the
32 township, bring a civil action against the executive if the executive fails
33 to file the report within ten (10) days after the legislative body's action.
34 The legislative body may recover five dollars (\$5) for each day beyond
35 the time limit for filing the report, until the report is filed.

36 SECTION 15. IC 36-6-6-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This chapter
38 applies to all townships.

39 (b) **On January 1, 2013, the township boards in each county are**
40 **abolished.**

41 (c) **After December 31, 2012:**

- 42 (1) **the county fiscal body is the fiscal body and legislative**

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1 body of each township in the county; and
2 (2) the county fiscal body shall exercise the legislative and
3 fiscal powers assigned in the Indiana Code to township
4 boards, including the authority to adopt the township's annual
5 budget and to levy township property taxes for township
6 funds.

7 (d) The abolishment of a township board under subsection (b)
8 does not invalidate:

- 9 (1) any resolutions, fees, schedules, or other actions adopted
10 or taken by the township board before January 1, 2013; or
11 (2) any appointments made by the township board before
12 January 1, 2013.

13 (e) After December 31, 2012, any reference:

- 14 (1) in the Indiana Code;
15 (2) in the Indiana Administrative Code; or
16 (3) in any resolution;

17 to the township board shall be considered a reference to the county
18 fiscal body.

19 SECTION 16. IC 36-6-9 IS ADDED TO THE INDIANA CODE AS
20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2010]:

22 Chapter 9. Employment of Relatives

23 Sec. 1. (a) As used in this chapter, "relative" means:

- 24 (1) a husband;
25 (2) a wife;
26 (3) a father, grandfather, or stepfather;
27 (4) a mother, grandmother, or stepmother;
28 (5) a son, grandson, stepson, or son-in-law;
29 (6) a daughter, granddaughter, stepdaughter, or
30 daughter-in-law;
31 (7) a brother or stepbrother;
32 (8) a sister or stepsister;
33 (9) an aunt;
34 (10) an uncle;
35 (11) a niece;
36 (12) a nephew; or
37 (13) a first cousin.

38 (b) A relative by adoption, half-blood, marriage, or remarriage
39 shall be treated as a relative of whole kinship.

40 Sec. 2. As used in this chapter, "township employee" means an
41 individual who is employed by a township on a full-time, a
42 part-time, a temporary, an intermittent, or an hourly basis. The

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1 term does not include a member of a paid fire department or a
2 volunteer fire department that renders fire protection services to
3 the township.

4 Sec. 3. A township may not hire an individual as a township
5 employee, if the individual is a relative of a township officer or
6 township employee.

7 Sec. 4. (a) A township may not enter into a contract or renew a
8 contract with:

- 9 (1) an individual to provide goods or services to the township,
10 if the individual is a relative of the township trustee; or
- 11 (2) a business entity to provide goods or services, if a relative
12 of the township trustee has an ownership interest in the
13 business entity.

14 (b) This section does not prohibit a township from entering into
15 a contract or renewing a contract if an employee of:

- 16 (1) an individual contractor under subsection (a)(1); or
- 17 (2) a business entity under subsection (a)(2);

18 is a relative of the township trustee.

19 (c) This section does not affect the initial term of a contract in
20 existence at the time a township trustee's term of office begins.

21 Sec. 5. A township employee who marries another township
22 employee or officer may not continue to be employed by the
23 township.

24 Sec. 6. This chapter does not require the termination or
25 reassignment of any employee of a township from any position held
26 by that individual before July 1, 2010. This section expires January
27 1, 2012.

28 SECTION 17. IC 36-6-10 IS ADDED TO THE INDIANA CODE
29 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2010]:

31 **Chapter 10. Township Capital Improvement Plan**

32 **Sec. 1. This chapter applies after December 31, 2012.**

33 **Sec. 2. As used in this chapter, "capital improvement" means**

- 34 (1) acquisition of land;
- 35 (2) site improvements;
- 36 (3) infrastructure improvements;
- 37 (4) construction of buildings or structures;
- 38 (5) rehabilitation, renovation, or enlargement of buildings or
39 structures; or
- 40 (6) acquisition or improvement of machinery, equipment,
41 furnishings, or facilities.

42 **Sec. 3. As used in this chapter, "capital improvement fund"**

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1 means a township fund in which the money in the fund may be used
2 for the payment of capital improvements. The term includes:

- 3 (1) a cumulative firefighting building and equipment fund
- 4 under IC 36-8-14;
- 5 (2) an equipment replacement fund under IC 36-8-19-8.5;
- 6 (3) a cumulative township vehicle and building fund under
- 7 IC 36-9-17.5;
- 8 (4) a cumulative building fund under IC 36-10-7.5-19; and
- 9 (5) any other fund established by a township for the payment
- 10 of capital improvements.

11 Sec. 4. As used in this chapter, "plan" refers to a township
12 capital improvement plan adopted or amended under this chapter.

13 Sec. 5. Before a township may collect property taxes for a
14 capital improvement fund in a particular year, the township
15 trustee must prepare a proposed or amended plan in the
16 immediately preceding year. The county fiscal body, not later than
17 August 1, shall hold a public hearing on a proposed or amended
18 plan and adopt the proposed or amended plan.

19 Sec. 6. (a) The department of local government finance shall
20 prescribe the format of the plan.

21 (b) A plan must:

- 22 (1) apply to at least the three (3) years immediately following
- 23 the year the plan is adopted;
- 24 (2) estimate for each year to which the plan applies the nature
- 25 and amount of proposed expenditures from the capital
- 26 improvement fund; and
- 27 (3) estimate:
 - 28 (A) the source of all revenue to be dedicated to the
 - 29 proposed expenditures in the upcoming calendar year; and
 - 30 (B) the amount of property taxes to be collected in the
 - 31 upcoming calendar year and retained in the fund for
 - 32 expenditures proposed for a later year.

33 Sec. 7. A township trustee, with the approval of the county fiscal
34 body, may amend a plan to:

- 35 (1) provide money for the purposes of the fund; or
- 36 (2) supplement money accumulated in the fund for the
- 37 purposes of the fund.

38 Sec. 8. The plan shall be considered by:

- 39 (1) the county fiscal body in making the annual budget
- 40 estimate under IC 6-1.1-17-2; and
- 41 (2) the department of local government finance when
- 42 reviewing a budget, tax rate, and tax levy of a township under

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1 **IC 6-1.1-17-16.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 240, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 8, delete lines 7 through 12, begin a new line block indented and insert:

"(2) Whether the ending balance remaining in each township fund is excessive and should be used by the township to reduce property tax levies. In determining whether an ending balance in a township fund is excessive, the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) shall consider the factors described in subdivision (1). If the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) determines under this subdivision that the ending balance in a township fund is excessive, the township board or county fiscal body shall transfer the excessive amount to the township's levy excess fund."

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"(e) The following apply to township budgets adopted for 2011, 2012, and 2013:

(1) Except as provided in subdivision (2), the total amount appropriated by a township board for a particular year (including any additional appropriations made for that year) may not exceed the result of:

(A) the total amount appropriated by the township board for the previous year (including any additional appropriations made for that year); multiplied by

(B) the assessed value growth quotient determined under IC 6-1.1-18.5-2 and applicable to the township for the particular year.

(2) If a township board determines after a public hearing that the township cannot carry out its governmental functions for a year under the appropriation limitations imposed by subdivision (1), the township board, after approval by the township executive, may appeal to the department of local government finance for relief from the appropriation limitations for the year. In the appeal, the township board must state that the township will be unable to carry out the governmental functions committed to it by law unless the township is given relief from the appropriation limits. The

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township board must support the appeal by reasonably detailed statements of fact. The department of local government finance shall review the merits of the township board's appeal. If the department of local government finance determines after reviewing the appeal that the township cannot carry out its governmental functions for a year under the appropriation limitations imposed by subdivision (1), the department of local government finance may grant relief from those appropriation limitations in the manner determined to be appropriate by the department of local government finance.

This subsection expires January 1, 2014."

Page 13, line 29, delete "may not be held in a private residence." and insert "**must be held in a public place.**"

Page 13, between lines 29 and 30, begin a new paragraph and insert:
"SECTION 13. IC 36-1.5-1-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) This section applies if:**

(1) a township reorganizes under this article with one (1) or more townships; and

(2) the new political subdivision that results from the reorganization is not a city or town.

(b) After December 31, 2012, the fiscal body of the resulting new political subdivision is the county fiscal body, which shall review the budget of the new political subdivision under IC 6-1.1-17-2."

Page 14, line 5, delete "personal" and insert "**tangible**".

Page 14, line 6, after "property" insert "**(as defined in IC 6-1.1-1-19)**".

Page 14, line 8, after "business." insert "**As used in this section, "private residence" means a place that is not a public place.**".

Page 17, line 7, delete "September 20" and insert "**August 1**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 240 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 4.

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