



April 5, 2011

**ENGROSSED  
SENATE BILL No. 26**

DIGEST OF SB 26 (Updated March 31, 2011 1:50 pm - DI 87)

**Citations Affected:** IC 36-1; IC 36-1.5; IC 36-6.

**Synopsis:** Local government reorganization and merger. Requires the department of local government finance (DLGF) to develop criteria for making an adjustment to allow a political subdivision to retain a part of its levy and budget that would otherwise be reduced because of savings: (1) from a government reorganization or township merger; (2) from the transfer, combination, or sharing of powers, duties, functions, or resources under an interlocal cooperation agreement; or (3) from the combination or reorganization of the political subdivision's departments, agencies, or functions. Provides that the amount of such an adjustment may not exceed a specified percentage of the savings or reduction realized in the first full year of operation after the merger or reorganization or the transfer, combination, or sharing of powers, duties, functions, or resources. Provides that the percentage is 50% in the first year of the adjustment and phases down to 10% in the fourth year of the adjustment and thereafter. Provides that the fiscal body of the political subdivision shall determine and certify to the DLGF the amount of the adjustment that the political subdivision wishes to accept. Specifies that in the case of a reorganization under the government reorganization statutes, the amount of any adjustment accepted by a reorganized political subdivision must comply with the reorganization agreement.

**Effective:** July 1, 2011.

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**Head, Hershman, Lawson C**

(HOUSE SPONSORS — TRUITT, SMITH M)

January 5, 2011, read first time and referred to Committee on Tax and Fiscal Policy.  
January 25, 2011, amended, reported favorably — Do Pass.  
February 10, 2011, read second time, amended, ordered engrossed.  
February 11, 2011, engrossed.  
February 14, 2011, read third time, passed. Yeas 49, nays 0.

**HOUSE ACTION**

March 28, 2011, read first time and referred to Committee on Government and Regulatory Reform.  
April 4, 2011, reported — Do Pass.

ES 26—LS 6164/DI 73+



April 5, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## ENGROSSED SENATE BILL No. 26

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

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

1 SECTION 1. IC 36-1-7-16 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2011]: **Sec. 16. (a) This section applies to a political subdivision**  
 4 **if:**  
 5 (1) the political subdivision enters into an agreement with one  
 6 (1) or more other political subdivisions under this chapter to  
 7 transfer, combine, or share powers, duties, functions, or  
 8 resources;  
 9 (2) the political subdivision realizes through the transfer,  
 10 combination, or sharing of powers, duties, functions, or  
 11 resources a:  
 12 (A) savings; or  
 13 (B) reduction in the reasonably foreseeable expenses that  
 14 would otherwise have been incurred by the political  
 15 subdivision if the transfer, combination, or sharing of  
 16 powers, duties, functions, or resources had not taken place;  
 17 and

ES 26—LS 6164/DI 73+



1 (3) the department of local government finance will otherwise  
2 decrease the maximum permissible property tax levies,  
3 maximum permissible property tax rates, or budgets of the  
4 political subdivision to:

5 (A) eliminate double taxation by different political  
6 subdivisions for services; or

7 (B) eliminate any excess by which the amount of property  
8 taxes imposed by the political subdivision exceeds the  
9 amount necessary to pay for services.

10 (b) The department of local government finance shall establish  
11 criteria for making an adjustment to the maximum permissible  
12 property tax levies, maximum permissible property tax rates, and  
13 budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political  
14 subdivision described in subsection (a).

15 (c) The adjustment under subsection (b) must permit the  
16 political subdivision to continue to:

17 (1) include in the political subdivision's budget part of the  
18 budgeted amounts that would otherwise be reduced by the  
19 department of local government finance on account of the  
20 realized savings or reduction in expenses; and

21 (2) impose part of a property tax levy that would otherwise be  
22 reduced by the department of local government finance on  
23 account of the realized savings or reduction in expenses.

24 (d) The additional amount that a political subdivision may  
25 continue to levy or include in the political subdivision's budget  
26 because of the adjustment under subsection (b) may not exceed the  
27 result of:

28 (1) the savings or reduction in expenses realized in the first  
29 full year of operation after the transfer, combination, or  
30 sharing of powers, duties, functions, or resources is  
31 implemented, as determined by the department of local  
32 government finance; multiplied by

33 (2) a percentage determined as follows:

34 (A) Fifty percent (50%) in the first year of the adjustment.

35 (B) Fifty percent (50%) in the second year of the  
36 adjustment.

37 (C) Thirty percent (30%) in the third year of the  
38 adjustment.

39 (D) Ten percent (10%) in the fourth year of the adjustment  
40 and thereafter.

41 The fiscal body of the political subdivision shall determine and  
42 certify to the department of local government finance the amount

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1 of the adjustment that the political subdivision wishes to accept  
2 under this section. The amount of any adjustment accepted by a  
3 political subdivision under this section must comply with the  
4 agreement under this chapter under which the political subdivision  
5 transfers, combines, or shares powers, duties, functions, or  
6 resources.

7 SECTION 2. IC 36-1-8-17 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2011]: Sec. 17. (a) This section applies to a political subdivision  
10 if:

11 (1) the political subdivision combines or reorganizes a  
12 department, agency, or function of the political subdivision;  
13 (2) the political subdivision realizes through the combination  
14 or reorganization a:

15 (A) savings; or  
16 (B) reduction in the reasonably foreseeable expenses that  
17 would otherwise have been incurred by the political  
18 subdivision if the combination or reorganization had not  
19 taken place; and

20 (3) the department of local government finance will otherwise  
21 decrease the maximum permissible property tax levies,  
22 maximum permissible property tax rates, or budgets of the  
23 political subdivision to:

24 (A) eliminate double taxation; or  
25 (B) eliminate any excess by which the amount of property  
26 taxes imposed by the political subdivision exceeds the  
27 amount necessary to pay for services.

28 (b) The department of local government finance shall establish  
29 criteria for making an adjustment to the maximum permissible  
30 property tax levies, maximum permissible property tax rates, and  
31 budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political  
32 subdivision described in subsection (a).

33 (c) The adjustment under subsection (b) must permit the  
34 political subdivision to continue to:

35 (1) include in the political subdivision's budget part of the  
36 budgeted amounts that would otherwise be reduced by the  
37 department of local government finance on account of the  
38 realized savings or reduction in expenses; and

39 (2) impose part of a property tax levy that would otherwise be  
40 reduced by the department of local government finance on  
41 account of the realized savings or reduction in expenses.

42 (d) The additional amount that a political subdivision may

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1 continue to levy or include in the political subdivision's budget  
2 because of the adjustment under subsection (b) may not exceed the  
3 result of:

4 (1) the savings or reduction in expenses realized in the first  
5 full year of operation after the combination or reorganization  
6 is implemented, as determined by the department of local  
7 government finance; multiplied by

8 (2) a percentage determined as follows:

9 (A) Fifty percent (50%) in the first year of the adjustment.

10 (B) Fifty percent (50%) in the second year of the  
11 adjustment.

12 (C) Thirty percent (30%) in the third year of the  
13 adjustment.

14 (D) Ten percent (10%) in the fourth year of the adjustment  
15 and thereafter.

16 The fiscal body of the political subdivision shall determine and  
17 certify to the department of local government finance the amount  
18 of the adjustment that the political subdivision wishes to accept  
19 under this section.

20 SECTION 3. IC 36-1.5-3-5, AS ADDED BY P.L.186-2006,  
21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2011]: Sec. 5. (a) The department of local government  
23 finance shall establish a formula criteria for adjusting making an  
24 adjustment to the maximum permissible property tax levies,  
25 maximum permissible property tax rates, and budgets under this  
26 chapter that permits IC 6-1.1-17 and IC 6-1.1-18.5 if a political  
27 subdivision (or a successor political subdivision) that realizes through  
28 a reorganization under this article, including a reorganization  
29 through a cooperative agreement under IC 36-1.5-5, a:

30 (1) savings; to its taxpayers; or

31 (2) reduction in the reasonably foreseeable expenses that would  
32 otherwise be have been incurred by its taxpayers; the political  
33 subdivision if the reorganization had not taken place.

34 through a reorganization under this article:

35 (b) Except as provided in subsection (d), the adjustment under  
36 this section must permit the political subdivision to continue to:

37 (1) include in the political subdivision's budget part of the  
38 budgeted amounts that would otherwise be reduced by the  
39 department of local government finance under section 4 of  
40 this chapter on account of the realized savings or reduction in  
41 expenses that occurs because of the reorganization; and

42 (2) impose part of the property tax levy part of that would

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1 otherwise be reduced by the department of local government  
2 finance under section 4 of this chapter on account of the  
3 realized savings or reduction in expenses that occurs because of  
4 the reorganization.

5 (c) The additional amount that a political subdivision may  
6 continue to levy or include in the political subdivision's budget  
7 because of the adjustment under this section may not exceed fifty  
8 percent (50%) the result of:

9 (1) the savings or reduction realized in the first full year of  
10 operation after the reorganization is implemented, as determined  
11 by the department of local government finance; multiplied by

12 (2) a percentage determined as follows:

13 (A) Fifty percent (50%) in the first year of the adjustment.

14 (B) Fifty percent (50%) in the second year of the  
15 adjustment.

16 (C) Thirty percent (30%) in the third year of the  
17 adjustment.

18 (D) Ten percent (10%) in the fourth year of the adjustment  
19 and thereafter.

20 The fiscal body of the political subdivision shall determine and  
21 certify to the department of local government finance the amount  
22 of the adjustment that the political subdivision wishes to accept  
23 under this section.

24 (d) The amount of any adjustment accepted by a political  
25 subdivision under this section must comply with the reorganization  
26 agreement under which the political subdivision is reorganized  
27 under this article.

28 SECTION 4. IC 36-6-1.5-12, AS ADDED BY P.L.240-2005,  
29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2011]: Sec. 12. (a) Subject to subsection (b), the officers of  
31 the new township government shall:

32 (1) obtain from the department of local government finance  
33 approval under IC 6-1.1-18.5-7 of:

34 (A) a budget;

35 (B) an ad valorem property tax levy; and

36 (C) a property tax rate;

37 (2) fix the annual budget under IC 6-1.1-17;

38 (3) impose a property tax levy; and

39 (4) take any action necessary to ensure the collection of fees and  
40 other revenue;

41 for the new township government for the budget year following the  
42 year the officers take office.

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1 (b) The department of local government finance shall establish  
2 criteria for making an adjustment to the maximum permissible  
3 property tax levies, maximum permissible property tax rates, and  
4 budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if the new township  
5 realizes through a merger under this chapter a:

- 6 (1) savings; or
- 7 (2) reduction in the reasonably foreseeable expenses that
- 8 would otherwise have been incurred by the political
- 9 subdivision if the merger had not taken place.

10 (c) The adjustment under subsection (b) must permit the new  
11 township to continue to:

- 12 (1) include in the township's budget part of the budgeted
- 13 amounts that would otherwise be reduced by the department
- 14 of local government finance on account of the realized savings
- 15 or reduction in expenses that occurs because of the merger;
- 16 and
- 17 (2) impose part of a property tax levy that would otherwise be
- 18 reduced by the department of local government finance on
- 19 account of the realized savings or reduction in expenses that
- 20 occurs because of the merger.

21 (d) The additional amount that a political subdivision may  
22 continue to levy or include in the political subdivision's budget  
23 because of the adjustment under subsection (b) may not exceed the  
24 result of:

- 25 (1) the savings or reduction in expenses realized in the first
- 26 full year of operation after the merger is implemented, as
- 27 determined by the department of local government finance;
- 28 multiplied by
- 29 (2) a percentage determined as follows:
  - 30 (A) Fifty percent (50%) in the first year of the adjustment.
  - 31 (B) Fifty percent (50%) in the second year of the
  - 32 adjustment.
  - 33 (C) Thirty percent (30%) in the third year of the
  - 34 adjustment.
  - 35 (D) Ten percent (10%) in the fourth year of the adjustment
  - 36 and thereafter.

37 The fiscal body of the new township shall determine and certify to  
38 the department of local government finance the amount of the  
39 adjustment that the new township wishes to accept under this  
40 section.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 26, 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 1, line 4, delete "a one" and insert "**an**".

Page 1, line 5, delete "(1) time".

Page 1, line 7, after "permits" insert "**IC 6-1.1-17 and**".

Page 1, line 15, delete "one (1) time".

Page 1, line 16, after "adjustment" insert "**under this section**".

Page 2, line 10, delete "one (1) time" and insert "**additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the**".

Page 2, line 11, strike "fifty percent (50%)" and insert "**the result**".

Page 2, line 11, after "of" insert ":

(1)".

Page 2, line 13, delete ". The fiscal" and insert "; **multiplied by**

(2) **a percentage determined as follows:**

(A) **Fifty percent (50%) in the first year of the adjustment.**

(B) **Fifty percent (50%) in the second year of the adjustment.**

(C) **Thirty percent (30%) in the third year of the adjustment.**

(D) **Ten percent (10%) in the fourth year of the adjustment and thereafter.**

**The fiscal**".

Page 2, line 15, delete "one (1)".

Page 2, line 16, delete "time".

Page 2, line 17, delete "The one (1) time adjustment applies in the first".

Page 2, delete line 18.

Page 2, line 19, delete "one (1) time".

Page 2, line 39, delete "a one (1) time" and insert "**an**".

Page 2, line 41, after "under" insert "**IC 6-1.1-17 and**".

Page 3, line 5, delete "one (1) time".

Page 3, line 16, delete "one (1) time adjustment" and insert "**additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b)**".

Page 3, line 16, delete "fifty percent" and insert "**the result**".

Page 3, line 17, delete "(50%)".

Page 3, line 17, after "of" insert ":

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(1)".

Page 3, line 19, delete ". The" and insert "; multiplied by

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The".

Page 3, line 21, delete "one (1)".

Page 3, line 22, delete "time".

Page 3, line 23, delete "The one (1) time adjustment applies in the first year in".

Page 3, delete line 24.

and when so amended that said bill do pass.

(Reference is to SB 26 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 26 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-1-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) This section applies to a political subdivision if:

(1) the political subdivision enters into an agreement with one (1) or more other political subdivisions under this chapter to transfer, combine, or share powers, duties, functions, or resources;

(2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

(A) savings; or

ES 26—LS 6164/DI 73+



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**(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place; and**

**(3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:**

**(A) eliminate double taxation by different political subdivisions for services; or**

**(B) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.**

**(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a).**

**(c) The adjustment under subsection (b) must permit the political subdivision to continue to:**

**(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and**

**(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.**

**(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:**

**(1) the savings or reduction in expenses realized in the first full year of operation after the transfer, combination, or sharing of powers, duties, functions, or resources is implemented, as determined by the department of local government finance; multiplied by**

**(2) a percentage determined as follows:**

**(A) Fifty percent (50%) in the first year of the adjustment.**

**(B) Fifty percent (50%) in the second year of the adjustment.**

**(C) Thirty percent (30%) in the third year of the**

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**adjustment.**

**(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.**

**The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section. The amount of any adjustment accepted by a political subdivision under this section must comply with the agreement under this chapter under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.**

**SECTION 2. IC 36-1-8-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) This section applies to a political subdivision if:**

- (1) the political subdivision combines or reorganizes a department, agency, or function of the political subdivision;**
- (2) the political subdivision realizes through the combination or reorganization a:**

**(A) savings; or**

**(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the combination or reorganization had not taken place; and**

- (3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:**

**(A) eliminate double taxation; or**

**(B) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.**

**(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a).**

**(c) The adjustment under subsection (b) must permit the political subdivision to continue to:**

- (1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the**

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realized savings or reduction in expenses; and  
(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

- (1) the savings or reduction in expenses realized in the first full year of operation after the combination or reorganization is implemented, as determined by the department of local government finance; multiplied by
- (2) a percentage determined as follows:
  - (A) Fifty percent (50%) in the first year of the adjustment.
  - (B) Fifty percent (50%) in the second year of the adjustment.
  - (C) Thirty percent (30%) in the third year of the adjustment.
  - (D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section."

Page 1, line 9, after "article" insert ", including a reorganization through a cooperative agreement under IC 36-1.5-5,".

Renumber all SECTIONS consecutively.

(Reference is to SB 26 as printed January 26, 2011.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 26, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

HINKLE, Chair

Committee Vote: yeas 13, nays 0.

ES 26—LS 6164/DI 73+

