HOUSE BILL No. 1357

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-9-3; IC 36-1.5-4; IC 36-4-1; IC 36-7.

Synopsis: Local government reorganization. Provides that if a public question is to be placed on a special election ballot, the public question must be certified to the election board not later than noon 30 days before the notice of the election. Provides that the resolution or petition initiating a local government reorganization must specify the date of the election on the public question concerning the proposed reorganization. Provides that a public question concerning a proposed reorganization may be on the ballot at a primary, general, or special election. Specifies that a public question concerning a proposed reorganization may not be on the ballot at a primary election unless the primary election is held in all precincts of the reorganizing political subdivisions. Provides that in the case of a proposed local government reorganization that is initiated by the petition of a local unit and that will be voted on at a special election, the reorganization committee must include in the reorganization plan a statement certifying: (1) that a fiscal impact analysis concerning the proposed reorganization has been prepared and made available; and (2) that the financial benefit of the proposed reorganization substantially outweighs the cost of holding the special election. Provides that a unit consisting of two or more townships and at least one municipality that have reorganized under the government reorganization statutes may exercise park and recreation powers if the unit's plan of reorganization authorizes the unit to exercise those powers. Specifies that such a unit may determine: (1) the number of members to be appointed to the unit's park and recreation board; (2) the person or entity that shall appoint or remove those members; (3) any required qualifications for those members; and (4)

(Continued next page)

Effective: July 1, 2011.

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January 18, 2011, read first time and referred to Committee on Government and Regulatory Reform.

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Digest Continued

the terms of those members. Provides that such a unit may exercise planning and zoning power if the unit's plan of reorganization authorizes the unit to do so. Allows the legislative body of such a unit to establish an advisory plan commission and a board of zoning appeals to exercise planning and zoning functions within the unit. Provides that notwithstanding the statute setting out the classification of municipalities, for purposes of local government administration a municipality reorganized under the local government reorganization statutes may, subject to the approval of the department of local government finance: (1) be classified and described as set forth in the reorganization plan; and (2) maintain characteristics of any of the reorganizing political subdivisions. Reconciles two conflicting versions of the municipal classification statute.

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Introduced

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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HOUSE BILL No. 1357

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:

SECTION 1. IC 3-10-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. If a local public question must be certified to an election board by law, that certification must occur no later than noon:

(1) sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot;

(2) thirty (30) days before the notice of the election, if the public question is to be placed on a special election ballot; or ~~(2)~~ **(3)** August 1 if the public question is to be placed on the general or municipal election ballot.

SECTION 2. IC 36-1.5-4-10, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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) A resolution adopted under this section must fix the date of the election on the public question concerning the proposed reorganization.

(c) If the public question concerning the proposed reorganization is to be on the ballot at a special election, the date must be:

(1) not less than thirty (30) days; and

(2) not more than sixty (60) days;

after the notice of the election. The public question must be certified as required by IC 3-10-9-3.

(d) If the public question concerning the proposed reorganization is to be on the ballot at a primary or general election:

(1) the resolution adopted under this section must state that fact; and

(2) the public question must be certified as required by IC 3-10-9-3.

However, an election on the public question may not be on the ballot at a primary election unless the primary election is held in all precincts of the reorganizing political subdivisions.

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

SECTION 3. IC 36-1.5-4-11, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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

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the proposed reorganization; **and**

(3) sets forth the date of the election on the public question concerning the proposed reorganization.

(b) If the public question concerning the proposed reorganization is to be on the ballot at a special election, the date must be:

(1) at least thirty (30) days; and

(2) not more than sixty (60) days;

after the notice of the election. The public question must be certified as required by IC 3-10-9-3.

(c) If the public question concerning the proposed reorganization is to be on the ballot at a primary or general election:

(1) the resolution adopted under this section must state that fact; and

(2) the public question must be certified as required by IC 3-10-9-3.

However, an election on the public question may not be on the ballot at a primary election unless the primary election is held in all precincts of the reorganizing political subdivisions.

~~(b)~~ **(d)** 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.

SECTION 4. IC 36-1.5-4-18, AS AMENDED BY P.L.113-2010, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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

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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%).

(10) The statement required by subsection (e).

(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

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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. In the case of a plan of reorganization submitted to a political subdivision by a reorganization committee after June 30, 2010, the political subdivision shall post a copy of the plan of reorganization on an Internet web site maintained or authorized by the political subdivision not more than thirty (30) days after receiving the plan of reorganization from the reorganization committee.

(e) A reorganization committee must include in the plan of reorganization submitted to a political subdivision after June 30, 2010, a statement of:

(1) whether a fiscal impact analysis concerning the proposed reorganization has been prepared or has not been prepared by or on behalf of the reorganization committee; and

(2) whether a fiscal impact analysis concerning the proposed reorganization has been made available or has not been made available to the public by or on behalf of the reorganization committee.

(f) If a resolution adopted under section 10 of this chapter provides for a special election, the reorganization committee must include in the plan of reorganization a statement certifying:

(1) that a fiscal impact analysis concerning the proposed reorganization has been prepared and made available; and

(2) that the financial benefit of the proposed reorganization substantially outweighs the cost of holding the special election.

SECTION 5. IC 36-1.5-4-27, AS AMENDED BY P.L.113-2010, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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

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accordance with IC 3-10-9 on ~~the first regularly scheduled general election or municipal election (excluding any primary elections) that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received.~~ **the date fixed for the election in the resolution adopted under section 10 of this chapter or in the petition filed under section 11 of this chapter.**

SECTION 6. IC 36-1.5-4-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 44. (a) A reorganized political subdivision consisting of:**

(1) two (2) or more townships; and

(2) at least one (1) municipality;

that have reorganized under IC 36-1.5 may exercise park and recreation powers under IC 36-10 if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers.

(b) If a reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise park and recreation powers under IC 36-10, the reorganized political subdivision may establish a park and recreation board.

(c) A park and recreation board established by a reorganized political subdivision under this section:

(1) shall exercise park and recreation functions within the reorganized political subdivision; and

(2) has the powers and duties of both a municipal park and recreation board and a township park and recreation board under IC 36-10.

(d) A reorganized political subdivision may by resolution or in the reorganized political subdivision's plan of reorganization determine:

(1) the number of members to be appointed to the reorganized political subdivision's park and recreation board;

(2) the person or entity that shall appoint or remove those members;

(3) any required qualifications for those members; and

(4) the terms of those members.

SECTION 7. IC 36-4-1-1, AS AMENDED BY P.L.64-2004, SECTION 34, AND AS AMENDED BY P.L.81-2004, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) **Except as provided in section 1.5 of this chapter,** municipalities are classified according to

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their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of ~~500,000~~ *600,000* or more	First class cities
Cities of 35,000 to ~~499,999~~ *599,999*	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 8. IC 36-4-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. Notwithstanding section 1 of this chapter, for purposes of local government administration under this title, a municipality reorganized under IC 36-1.5 may, subject to the approval of the department of local government finance:**

(1) be classified and described as set forth in the reorganization plan adopted under IC 36-1.5-4; and

(2) maintain characteristics of any of the reorganizing political subdivisions.

SECTION 9. IC 36-7-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all units except townships.

(b) A unit consisting of:

(1) two (2) or more townships; and

(2) at least one (1) municipality;

that have reorganized under IC 36-1.5 may exercise planning and zoning power under IC 36-7-4 if the unit's plan of reorganization under IC 36-1.5 authorizes the unit to exercise planning and zoning powers.

SECTION 10. IC 36-7-4-107 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 107. If a provision of this chapter requires a power to be exercised by adoption of an ordinance, a unit described in IC 36-7-2-1(b) shall exercise the power by adoption of a resolution.**

SECTION 11. IC 36-7-4-202.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 202.5. (a) ADVISORY.**

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Notwithstanding any other law, the legislative body of a unit described in IC 36-7-2-1(b) may establish by resolution an advisory plan commission.

(b) ADVISORY. If an advisory plan commission is established under this section by a unit described in IC 36-7-2-1(b) and the unit adopts a comprehensive plan under this chapter:

(1) the plan commission of the unit shall exercise the planning and zoning functions within the unit;

(2) the plan commission unit may not exercise planning and zoning functions within a municipality that has established a plan commission under this chapter (other than a municipality that participated in the reorganization of the unit under IC 36-1.5);

(3) a county plan commission may not exercise planning and zoning functions within the unit; and

(4) except as provided in subdivision (2), a municipal plan commission of a municipality (other than a municipality that participated in the reorganization of the unit under IC 36-1.5) may not exercise planning and zoning functions within the unit.

Notwithstanding any other law, if a municipality (other than a municipality that participated in the reorganization of the unit under IC 36-1.5) annexes territory within a unit described in IC 36-7-2-1(b) after the unit has established an advisory plan commission under this section, the municipal plan commission of that municipality may not exercise planning and zoning functions within that annexed territory.

(c) ADVISORY. Except as specifically provided in this chapter, an advisory plan commission established under this section by a unit described in IC 36-7-2-1(b) shall exercise the planning and zoning functions within the unit in the same manner that a municipal plan commission established under this chapter exercises planning and zoning functions for a municipality.

(d) ADVISORY. Notwithstanding any other provision, if an advisory plan commission is established under this section by a unit described in IC 36-7-2-1(b), the legislative body of the unit shall by resolution or in the unit's plan of reorganization under IC 36-1.5 determine:

(1) the number of members to be appointed to the unit's advisory plan commission;

(2) the person or entity that shall appoint or remove those members;

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(3) any required qualifications for those members;

(4) the terms of those members; and

(5) whether any members or advisory members shall be appointed by the county in which the unit is located or by a municipality located within the unit.

SECTION 12. IC 36-7-4-901.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 901.5. (a) If an advisory plan commission is established under section 202.5 of this chapter by a unit described in IC 36-7-2-1(b) and the unit adopts a comprehensive plan under this chapter, the legislative body of the unit shall establish a board of zoning appeals.**

(b) A board of zoning appeals established under this section:

(1) shall exercise its powers and duties under this chapter within the unit in the same manner that a municipal board of zoning appeals established under this chapter exercises powers and duties under this chapter for a municipality; and

(2) may not exercise its powers and duties under this chapter within a municipality that has established a plan commission under this chapter (other than a municipality that participated in the reorganization of the unit under IC 36-1.5).

(c) Notwithstanding any other law, if the legislative body of a unit described in IC 36-7-2-1(b) establishes a board of zoning appeals under this section, the legislative body of the unit shall by resolution determine:

(1) the number of members to be appointed to the unit's board of zoning appeals;

(2) the person or entity that shall appoint or remove those members;

(3) any required qualifications for those members; and

(4) the terms of those members.

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