Reprinted
February 11, 2011

SENATE BILL No. 26

DIGEST OF SB 26 (Updated February 10, 2011 4:04 pm - DI 73)

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.

Head, Hershman, Lawson C

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.

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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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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:

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

(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 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

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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 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

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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.

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

(1) savings; ~~to its taxpayers;~~ or

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

~~through a reorganization under this article.~~

(b) Except as provided in subsection (d), the adjustment under this section 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 under section 4 of this chapter on account of the realized savings or reduction in expenses that occurs because of the reorganization; and

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

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

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

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

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

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

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

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

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

(3) impose a property tax levy; and

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

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

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(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 if the new township realizes through a merger under this chapter a:

(1) savings; or

(2) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the merger had not taken place.

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

(1) include in the township'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 that occurs because of the merger; 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 that occurs because of the merger.

(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 merger 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 new township shall determine and certify to the department of local government finance the amount of the adjustment that the new township wishes to accept under this 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

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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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