



Reprinted
February 22, 2011

SENATE BILL No. 386

DIGEST OF SB 386 (Updated February 21, 2011 5:42 pm - DI 87)

Citations Affected: IC 6-9; IC 36-1.5; IC 36-4; IC 36-7.

Synopsis: Local government reorganization. Requires the plan prepared by a reorganization committee under the government reorganization statutes to include a fiscal impact analysis. Specifies the required contents of the fiscal impact analysis. Requires a reorganization committee to submit the fiscal impact analysis to the department of local government finance (DLGF) at least six months before the election in which the public question will be on the ballot. Requires the DLGF to do the following within a reasonable period of time, but not later than 30 days before the public question: (1) Review the fiscal impact analysis. (2) Make any comments concerning the fiscal impact analysis that the department considers appropriate. (3) Provide comments to the legislative body of the reorganizing political subdivisions and post the comments on the DLGF's Internet web site. Requires the reorganizing political subdivisions to pay the expenses incurred by the DLGF in carrying out the review and preparing the comments. Provides that if the office of township trustee is abolished as part of a local government reorganization, the powers and duties of the township trustee concerning cemeteries are transferred to the county executive. Provides that if a township board is abolished as part of a local government reorganization, the fiscal and legislative powers and duties of the township board concerning cemeteries are transferred to the county fiscal body and the county legislative body. Provides that
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Effective: Upon passage; July 1, 2011.

Waltz, Lawson C, Becker

January 11, 2011, read first time and referred to Committee on Local Government.
February 17, 2011, amended, reported favorably — Do Pass.
February 21, 2011, read second time, amended, ordered engrossed.

SB 386—LS 6635/DI 73+



certification of a public question on a proposed local government reorganization must occur as required for other public questions under the election law. Allows a special election to be held on a public question concerning a proposed government reorganization if the reorganizing political subdivisions request the special election and agree to pay the costs of holding the special election. Provides that in the case of a proposed reorganization between a municipality and a township: (1) the voters residing within the municipality shall be included only in the tally of votes for the municipality and shall not be included in the tally of votes for the township; and (2) the voters who reside within the township but do not reside within the municipality shall be included only in the tally of votes for the township and shall not be included in the tally of votes for the municipality. Specifies that a reorganized political subdivision created from two or more townships and at least one municipality that have reorganized: (1) may exercise park and recreation powers and establish a park and recreation board if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers; and (2) may exercise planning and zoning power if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers. Provides that such a reorganized political subdivision shall by resolution or in the plan of reorganization determine the number of members to be appointed to the reorganized political subdivision's park and recreation board, advisory plan commission, and board of zoning appeals. Provides that a political subdivision may not take certain actions within a reorganizing political subdivision after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions except in the following circumstances: (1) All reorganizing political subdivisions agree to allow the action by adopting identical resolutions. (2) The plan is rejected by voters in a referendum. (3) The plan is approved by voters and the earlier of the following occurs: (A) The plan is implemented. (B) One year has elapsed from the date the plan has been approved. Changes the membership of the convention and visitor bureau in Lake County.

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Reprinted
February 22, 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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SENATE BILL No. 386

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 6-9-2-3, AS AMENDED BY P.L.223-2007,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 3. (a) For purposes of this section, the size of a
4 political subdivision is based on the population determined in the last
5 federal decennial census.

6 (b) A convention and visitor bureau having ~~fifteen (15)~~ **nineteen**
7 **(19)** members is created to promote the development and growth of the
8 convention, tourism, and visitor industry in the county.

9 (c) The executives (as defined by IC 36-1-2-5) of the ~~eight (8)~~
10 ~~largest municipalities (as defined by IC 36-1-2-11)~~ **five (5) largest**
11 **cities and the seven (7) largest towns** in the county shall each appoint
12 one (1) member to the bureau. The legislative body (as defined in
13 IC 36-1-2-9) of the two (2) largest municipalities in the county shall
14 each appoint one (1) member to the bureau.

15 (d) The county council shall appoint two (2) members to the bureau.

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1 One (1) of the appointees must be a resident of the **fifth** largest
2 **township city** in the county, and one (1) of the appointees must be a
3 resident of the ~~second eighth~~ largest ~~township town~~ in the county. **The**
4 **appointees may not be of the same political party.**

5 (e) The county commissioners shall appoint two (2) members to the
6 bureau. ~~Each appointee~~ **One (1) of the appointees** must be a resident
7 of the ~~fifth, sixth seventh, eighth, ninth, tenth, or eleventh~~ largest
8 **township town** in the county. ~~These appointees must be residents of~~
9 ~~different townships.~~ **One (1) of the appointees must be a resident of**
10 **the seventh largest town in the county. The appointees may not be**
11 **of the same political party.**

12 (f) The lieutenant governor shall appoint one (1) member to the
13 bureau.

14 (g) ~~One (1) of the appointees under subsection (d) and one (1) of the~~
15 ~~appointees under subsection (e) must be members of the political party~~
16 ~~that received the highest number of votes in the county in the last~~
17 ~~preceding election for the office of secretary of state. One (1) of the~~
18 ~~appointees under subsection (d) and one (1) of the appointees under~~
19 ~~subsection (e) must be members of the political party that received the~~
20 ~~second highest number of votes in the county in the election for that~~
21 ~~office. No appointee under this section may hold an elected or~~
22 ~~appointed political office while serving on the bureau.~~

23 (h) In making appointments under this section, the appointing
24 authority shall give sole consideration to individuals who are
25 knowledgeable about or employed as executives or managers in at least
26 one (1) of the following businesses in the county:

- 27 (1) Hotel.
- 28 (2) Motel.
- 29 (3) Restaurant.
- 30 (4) Travel.
- 31 (5) Transportation.
- 32 (6) Convention.
- 33 (7) Trade show.
- 34 (8) A riverboat licensed under IC 4-33.
- 35 (9) Banking.
- 36 (10) Real estate.
- 37 (11) Construction.

38 However, an individual employed by a riverboat may not be appointed
39 under this section unless the individual holds a Level 1 occupational
40 license issued under IC 4-33-8. This subsection does not apply to board
41 members appointed before July 1, 2007, who are eligible for
42 reappointment after June 30, 2007.

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1 (i) All terms of office of bureau members begin on July 1. Members
2 of the bureau serve terms of three (3) years. A member whose term
3 expires may be reappointed to serve another term. If a vacancy occurs,
4 the appointing authority shall appoint a qualified person to serve for the
5 remainder of the term. If an appointment is not made before July 16 or
6 a vacancy is not filled within thirty (30) days, the member appointed by
7 the lieutenant governor under subsection (f) shall appoint a qualified
8 person.

9 (j) A member of the bureau may be removed for cause by the
10 member's appointing authority.

11 (k) Members of the bureau may not receive a salary. However,
12 bureau members are entitled to reimbursement for necessary expenses
13 incurred in the performance of their respective duties.

14 (l) Each bureau member, before entering the member's duties, shall
15 take an oath of office in the usual form, to be endorsed upon the
16 member's certificate of appointment and promptly filed with the clerk
17 of the circuit court of the county.

18 (m) The bureau shall meet after July 1 each year for the purpose of
19 organization. The bureau shall elect a chairman from its members. The
20 bureau shall also elect from its members a vice chairman, a secretary,
21 and a treasurer. The members serving in those offices shall perform the
22 duties pertaining to the offices. The first officers chosen shall serve
23 until their successors are elected and qualified. A majority of the
24 bureau constitutes a quorum, and the concurrence of a majority of those
25 present is necessary to authorize any action.

26 (n) If the county and one (1) or more adjoining counties desire to
27 establish a joint bureau, the counties shall enter into an agreement
28 under IC 36-1-7.

29 (o) Notwithstanding any other law, any bureau member appointed
30 as of January 1, 2007, is eligible for reappointment.

31 SECTION 2. IC 36-1.5-4-18, AS AMENDED BY P.L.113-2010,
32 SECTION 110, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A reorganization
34 committee shall prepare a comprehensive plan of reorganization for the
35 reorganizing political subdivisions. The plan of reorganization governs
36 the actions, duties, and powers of the reorganized political subdivision
37 that are not specified by law.

38 (b) The plan of reorganization must include at least the following:

39 (1) The name and a description of the reorganized political
40 subdivision that will succeed the reorganizing political
41 subdivisions.

42 (2) A description of the boundaries of the reorganized political

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subdivision.
(3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.
(4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.
(5) A description of the services to be offered by the reorganized political subdivision and the service areas in which the services will be offered.
(6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.
(7) Any other matter that the:
 (A) reorganization committee determines to be necessary or appropriate; or
 (B) legislative bodies of the reorganizing political subdivisions require the reorganization committee;
to include in the plan of reorganization.
(8) In the case of a reorganization described in section 1(a)(9) of this chapter, if the legislative bodies of the reorganizing political subdivisions have specified that the vote on the public question regarding the reorganization shall be conducted on a countywide basis under section 30(b) of this chapter with a rejection threshold, the reorganization committee shall include in the reorganization plan a rejection threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization.
(9) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote

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approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(10) The ~~statement~~ **fiscal impact analysis** 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 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. **If the plan of reorganization is amended, the political subdivision shall post the amended plan on the Internet web site maintained or authorized by the political subdivision within seven (7) days after the amended plan is adopted.**

(e) A reorganization committee must include in the plan of reorganization submitted to a political subdivision after June 30, ~~2010~~; **2011, a statement of: fiscal impact analysis of the proposed reorganization. The fiscal impact analysis must include at least the following:**

- (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.

(1) The estimated effect of the proposed reorganization on taxpayers in each of the political subdivisions to which the

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proposed reorganization applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions.

(2) A description of the planned services to be provided in the reorganized political subdivision, and the method or methods of financing the planned services. The fiscal impact analysis must:

(A) present itemized estimated costs for each department or agency of the reorganized political subdivision; and

(B) explain how specific and detailed expenses will be funded from taxes, fees, grants, and other funding.

(3) A description of the capital improvements to be provided in the reorganized political subdivision, and the method or methods of financing those capital improvements.

(f) A reorganization committee must submit the fiscal impact analysis described in subsection (e) to the department of local government finance at least six (6) months before the election in which the public question will be on the ballot. A legislative body of a reorganizing political subdivision may not adopt a plan of reorganization unless the reorganization committee has submitted the fiscal impact analysis to the department of local government finance as required by this subsection. The department of local government finance must do the following within a reasonable period of time, but not later than thirty (30) days before the date of the election in which the public question will be on the ballot:

- (1) Review the fiscal impact analysis.
- (2) Make any comments concerning the fiscal impact analysis that the department considers appropriate.
- (3) Provide the department's comments under subdivision (2) to the legislative body of the reorganizing political subdivisions.
- (4) Post the department's comments under subdivision (2) on the department's Internet web site.

The department of local government finance shall certify to the reorganization committee the total amount of expense incurred by the department in carrying out the department's review and preparing the department's comments. Upon receipt of the department's certification of the expenses, the reorganizing political subdivisions shall immediately pay to the treasurer of state the amount charged. The share of the cost to be paid by each reorganizing political subdivision shall be determined by the reorganization committee. Money paid by a reorganizing political

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1 subdivision under this subsection shall be deposited in the state
2 general fund.

3 SECTION 3. IC 36-1.5-4-18.5 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) This section applies**
6 **to a reorganization:**

7 (1) that is approved by voters under this article after June 30,
8 2011; and

9 (2) in which at least one (1) township is a reorganizing
10 political subdivision.

11 (b) Notwithstanding any other law:

12 (1) if the office of township trustee is abolished as part of a
13 reorganization described in subsection (a), the powers and
14 duties of the township trustee within the township concerning
15 cemeteries under IC 23-14 or any other law are transferred to
16 the county executive; and

17 (2) if the township board is abolished as part of a
18 reorganization described in subsection (a):

19 (A) the fiscal powers and duties of the township board
20 within the township concerning cemeteries under IC 23-14
21 or any other law are transferred to the county fiscal body;
22 and

23 (B) the legislative powers and duties of the township board
24 within the township concerning cemeteries under IC 23-14
25 or any other law are transferred to the county legislative
26 body.

27 SECTION 4. IC 36-1.5-4-27, AS AMENDED BY P.L.113-2010,
28 SECTION 111, IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) After the county**
30 **recorder of each county in which reorganizing political subdivisions are**
31 **located has notified the county election board that a public question on**
32 **a plan of reorganization is eligible to be placed on the ballot, the county**
33 **election board shall, except as provided in subsection (b), place the**
34 **public question on the ballot in accordance with IC 3-10-9 on the first**
35 **regularly scheduled general election or municipal election (excluding**
36 **any primary elections) that will occur in all of the precincts of the**
37 **reorganizing political subdivisions at least sixty (60) days after the**
38 **required notices are received. after the public question has been**
39 **certified as provided in IC 3-10-9-3.**

40 (b) If a regularly scheduled general election or municipal
41 election (excluding any primary elections) will not be held in all of
42 the precincts of the reorganizing political subdivisions during the

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1 first year in which the public question is eligible to be placed on the
 2 ballot under this section and if the reorganizing political
 3 subdivisions request the public question to be placed on the ballot
 4 at a special election, the public question shall be placed on the
 5 ballot at a special election to be held on the first Tuesday after the
 6 first Monday in November of the year. The certification must occur
 7 not later than noon on August 1. However, a special election may
 8 be held under this subsection only if the reorganizing political
 9 subdivisions agree to pay the costs of holding the special election.
 10 The county election board shall give notice under IC 5-3-1 of a
 11 special election conducted under this subsection. A special election
 12 conducted under this subsection is under the direction of the
 13 county election board. The county election board shall take all
 14 steps necessary to carry out the special election.

15 SECTION 5. IC 36-1.5-4-32, AS ADDED BY P.L.186-2006,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 32. (a) This subsection does not apply to a
 18 reorganization described in section 1(a)(9) of this chapter. A
 19 reorganization as specified in the plan of reorganization is approved if
 20 a majority of the voters in each reorganizing political subdivision
 21 voting on the public question approve the public question on the
 22 reorganization. **If a reorganizing political subdivision includes the
 23 territory of another reorganizing political subdivision, the
 24 following apply:**

25 **(1) Except as provided in subdivision (2),** the vote of voters of
 26 a reorganizing political subdivision (~~for example, a city~~) who also
 27 are voters in a second reorganizing political subdivision (~~for
 28 example, a township~~) that is geographically larger than the first
 29 political subdivision and that includes the territory of the first
 30 political subdivision shall be included only in the tally of votes for
 31 the first reorganizing political subdivision in which the voters
 32 reside.

33 **(2) In the case of a proposed reorganization between a
 34 municipality and a township:**

35 **(A) the voters who reside within the municipality and do
 36 not also reside within the township:**

37 **(i) shall be included only in the tally of votes for the
 38 municipality; and**

39 **(ii) shall not be included in the tally of votes for the
 40 township; and**

41 **(B) the voters who reside within the township and also
 42 reside within the municipality:**

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- 1 **(i) shall be included only in the tally of votes for the**
- 2 **township; and**
- 3 **(ii) shall not be included in the tally of votes for the**
- 4 **municipality.**

5 (b) This subsection applies only to a reorganization described in
6 section 1(a)(9) of this chapter. The reorganization is approved only if:

- 7 (1) the percentage of voters voting on the public question who
- 8 vote, on a countywide basis, in favor of the proposed
- 9 reorganization is at least equal to the countywide vote approval
- 10 percentage specified in the final reorganization plan;
- 11 (2) if the legislative bodies of the reorganizing political
- 12 subdivisions have agreed that the vote on the public question shall
- 13 be conducted with a rejection threshold, the percentage of voters
- 14 of the county (excluding the voters of the reorganizing
- 15 municipalities) voting on the public question who vote against the
- 16 reorganization is less than the rejection threshold included in the
- 17 final reorganization plan; and
- 18 (3) if the legislative bodies of the reorganizing political
- 19 subdivisions have agreed that the vote on the public question shall
- 20 be conducted with a rejection threshold, the percentage of voters
- 21 of each reorganizing municipality voting on the public question
- 22 who vote against the reorganization is less than the rejection
- 23 threshold included in the final reorganization plan.

24 If the reorganization is not approved, the reorganization is terminated.
25 If the legislative bodies of the reorganizing political subdivisions have
26 agreed that the vote in the public question shall be conducted with a
27 rejection threshold, then in tabulating the votes under subdivisions (2)
28 and (3), the vote of voters of a reorganizing municipality who also are
29 voters in the county shall be included only in the tally of votes for the
30 municipality in which the voters reside.

31 SECTION 6. IC 36-1.5-4-44 IS ADDED TO THE INDIANA CODE
32 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: **Sec. 44. (a) A reorganized political subdivision**
34 **consisting of:**

- 35 **(1) two (2) or more townships; and**
- 36 **(2) at least one (1) municipality;**
- 37 **that has reorganized under this article may exercise park and**
- 38 **recreation powers under IC 36-10 if the reorganized political**
- 39 **subdivision's plan of reorganization authorizes the reorganized**
- 40 **political subdivision to exercise those powers.**

41 **(b) If a reorganized political subdivision's plan of reorganization**
42 **authorizes the reorganized political subdivision to exercise park**

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1 and recreation powers under IC 36-10, the reorganized political
2 subdivision may establish a park and recreation board.

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

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

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

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

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

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

17 (3) any required qualifications for those members; and

18 (4) the terms of those members.

19 SECTION 7. IC 36-1.5-4-45 IS ADDED TO THE INDIANA CODE
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2011]: Sec. 45. (a) Except as provided in subsections (c) through
22 (e), a political subdivision may not take an action described in
23 subsection (b) within a reorganizing political subdivision after the
24 date a plan of reorganization is finally adopted by all reorganizing
25 political subdivisions.

26 (b) A political subdivision may not take any of the following
27 actions partially or wholly within a reorganizing political
28 subdivision after the date a plan of reorganization is finally
29 adopted by all reorganizing political subdivisions unless all
30 reorganizing political subdivisions agree by adopting identical
31 resolutions:

32 (1) Initiate an annexation of territory within the township.

33 (2) Establish a fire protection territory or fire protection
34 district.

35 (3) Extend water, sewer, or any other infrastructure to the
36 political subdivision.

37 (4) Expand zoning jurisdiction under IC 36-7-4-205.

38 (c) This chapter does not prohibit:

39 (1) a political subdivision subject to the reorganization from
40 taking an action under subsection (b) within the political
41 subdivision's own boundaries; and

42 (2) any of the reorganizing political subdivisions taking an

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action under subsection (b) for the purpose of implementing the plan of reorganization.

(d) A political subdivision may take an action described in subsection (b) after the date the reorganization is rejected by the voters under section 33 of this chapter.

(e) If a reorganization is approved by the voters under section 34 of this chapter, a political subdivision may not take an action under subsection (b) until the earlier of the following:

(1) The plan of reorganization has been implemented.

(2) One (1) year after the date the reorganization is approved under section 34 of this chapter.

SECTION 8. IC 36-4-3-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.4. If a township is a participant in a proposed reorganization under IC 36-1.5-4-1(a)(2), IC 36-1.5-4-1(a)(7), or IC 36-1.5-4-1(a)(8), a municipality may not adopt an annexation ordinance annexing territory within the township within the period set forth in IC 36-1.5-4-45.**

SECTION 9. IC 36-7-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **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 has 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 UPON PASSAGE]: **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 UPON PASSAGE]: **Sec. 202.5. (a) ADVISORY. 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

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adopts a comprehensive plan under this chapter:

- (1) the advisory plan commission of the unit shall exercise the planning and zoning functions within the unit;**
- (2) the advisory plan commission of the 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) the 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;**
- (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.**

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

8 **(b) A board of zoning appeals established under this section:**
9 **(1) shall exercise its powers and duties under this chapter**
10 **within the unit in the same manner that a municipal board of**
11 **zoning appeals established under this chapter exercises**
12 **powers and duties under this chapter for a municipality; and**
13 **(2) may not exercise its powers and duties under this chapter**
14 **within a municipality that has established a plan commission**
15 **under this chapter (other than a municipality that**
16 **participated in the reorganization of the unit under**
17 **IC 36-1.5).**

18 **(c) Notwithstanding any other law, if the legislative body of a**
19 **unit described in IC 36-7-2-1(b) establishes a board of zoning**
20 **appeals under this section, the legislative body of the unit shall by**
21 **resolution or in the unit's plan of reorganization under IC 36-1.5**
22 **determine:**

- 23 **(1) the number of members to be appointed to the unit's board**
- 24 **of zoning appeals;**
- 25 **(2) the person or entity that shall appoint or remove those**
- 26 **members;**
- 27 **(3) any required qualifications for those members; and**
- 28 **(4) the terms of those members.**

29 SECTION 13. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 386, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-2-3, AS AMENDED BY P.L.223-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having fifteen (15) members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the ~~eight (8)~~ **largest municipalities (as defined by IC 36-1-2-11) five (5) largest cities and the seven (7) largest towns** in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

~~(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.~~

~~(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.~~

~~(f) (d) The lieutenant governor shall appoint one (1) member to the bureau.~~

~~(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. (e) No appointee under this section may hold an elected or appointed political office while serving on the bureau.~~

~~(h) (f) In making appointments under this section, the appointing authority shall give sole consideration to individuals who are~~

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knowledgeable about or employed as executives or managers in at least one (1) of the following businesses in the county:

- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.
- (8) A riverboat licensed under IC 4-33.
- (9) Banking.
- (10) Real estate.
- (11) Construction.

However, an individual employed by a riverboat may not be appointed under this section unless the individual holds a Level 1 occupational license issued under IC 4-33-8. This subsection does not apply to board members appointed before July 1, 2007, who are eligible for reappointment after June 30, 2007.

~~(f)~~ **(g)** All terms of office of bureau members begin on July 1. Members of the bureau serve terms of three (3) years. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection ~~(f)~~ **(d)** shall appoint a qualified person.

~~(j)~~ **(h)** A member of the bureau may be removed for cause by the member's appointing authority.

~~(k)~~ **(i)** Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

~~(l)~~ **(j)** Each bureau member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

~~(m)~~ **(k)** The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority

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of those present is necessary to authorize any action.

~~(n)~~ **(l)** If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7.

~~(o)~~ **(m)** Notwithstanding any other law, any bureau member appointed as of January 1, 2007, is eligible for reappointment."

Page 6, delete lines 8 through 42.

Page 7, delete lines 1 through 22.

Page 8, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 6. IC 36-1.5-4-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 45. (a) This section applies only to a reorganization of the following:**

- (1) Two (2) or more townships located entirely within the same county.**
- (2) A township and a municipality that is located in any part of the same township.**
- (3) A county and one (1) or more townships that are located in the county.**

(b) Except as provided in subsections (d) through (f), a political subdivision may not take an action described in subsection (c) within a reorganizing township after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions by:

- (1) final adoption of the plan of reorganization by the legislative bodies of the reorganizing political subdivisions;**
- (2) approval of the plan of reorganization by the registered voters in a referendum under a petition filed under section 23.5(4) of this chapter; or**
- (3) adoption by the legislative bodies of less than all reorganizing political subdivisions under subdivision (1) and approval by the voters of less than all reorganizing political subdivisions under subdivision (2).**

(c) A political subdivision may not take any of the following actions partially or wholly within a reorganizing township after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions:

- (1) Initiate an annexation of territory within the township.**
- (2) Establish a fire protection territory or fire protection district.**
- (3) Extend water, sewer, or any other infrastructure to the political subdivision.**

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(4) Designate an area within the township for purposes of exercising zoning jurisdiction under IC 36-7-4-205.

(d) This chapter does not prohibit:

(1) a township subject to the reorganization from taking an action under subsection (c) within the township's own boundaries; and

(2) any of the reorganizing political subdivisions taking an action under subsection (c) for the purpose of implementing the plan of reorganization.

(e) A political subdivision may take an action within a township described in subsection (c) after the date the reorganization is rejected by the voters under section 33 of this chapter.

(f) If a reorganization is approved by the voters under section 34 of this chapter, a political subdivision may not take an action under subsection (c) until the earlier of the following:

(1) The plan of reorganization has been implemented.

(2) One (1) year after the date the reorganization is approved under section 34 of this chapter.

SECTION 7. IC 36-4-3-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.4. If a township is a participant in a proposed reorganization under IC 36-1.5-4-1(a)(2), IC 36-1.5-4-1(a)(7), or IC 36-1.5-4-1(a)(8), a municipality may not adopt an annexation ordinance annexing territory within the township within the period set forth in IC 36-1.5-4-44."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 386 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 386 be amended to read as follows:

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 36-1.5-4-32, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) This subsection does not apply to a

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reorganization described in section 1(a)(9) of this chapter. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision voting on the public question approve the public question on the reorganization. **If a reorganizing political subdivision includes the territory of another reorganizing political subdivision, the following apply:**

(1) Except as provided in subdivision (2), the vote of voters of a reorganizing political subdivision (~~for example, a city~~) who also are voters in a second reorganizing political subdivision (~~for example, a township~~) that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside.

(2) In the case of a proposed reorganization between a municipality and a township:

(A) the voters who reside within the municipality and do not also reside within the township:

(i) shall be included only in the tally of votes for the municipality; and

(ii) shall not be included in the tally of votes for the township; and

(B) the voters who reside within the township and also reside within the municipality:

(i) shall be included only in the tally of votes for the township; and

(ii) shall not be included in the tally of votes for the municipality.

(b) This subsection applies only to a reorganization described in section 1(a)(9) of this chapter. The reorganization is approved only if:

(1) the percentage of voters voting on the public question who vote, on a countywide basis, in favor of the proposed reorganization is at least equal to the countywide vote approval percentage specified in the final reorganization plan;

(2) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan; and

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(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan.

If the reorganization is not approved, the reorganization is terminated. If the legislative bodies of the reorganizing political subdivisions have agreed that the vote in the public question shall be conducted with a rejection threshold, then in tabulating the votes under subdivisions (2) and (3), the vote of voters of a reorganizing municipality who also are voters in the county shall be included only in the tally of votes for the municipality in which the voters reside."

Renumber all SECTIONS consecutively.

(Reference is to SB 386 as printed February 18, 2011.)

WALTZ

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SENATE MOTION

Madam President: I move that Senate Bill 386 be amended to read as follows:

Page 1, line 6, strike "fifteen (15)" and insert "**nineteen (19)**".

Page 1, delete line 15, begin a new paragraph and insert:

"(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the **fifth** largest ~~township~~ **city** in the county, and one (1) of the appointees must be a resident of the ~~second~~ **eighth** largest ~~township~~ **town** in the county. **The appointees may not be of the same political party.**

(e) The county commissioners shall appoint two (2) members to the bureau. ~~Each appointee~~ **One (1) of the appointees** must be a resident of the ~~fifth, sixth seventh, eighth, ninth, tenth, or eleventh~~ largest ~~township~~ **town** in the county. ~~These appointees must be residents of different townships:~~ **One (1) of the appointees must be a resident of the seventh largest town in the county. The appointees may not be of the same political party."**

Page 2, delete lines 1 through 7.

Page 2, line 8, reset in roman "(f)".

Page 2, line 8, delete "(d)".

Page 2, line 10, reset in roman "(g)".



Page 2, line 17, delete "(e)".
Page 2, line 19, reset in roman "(h)".
Page 2, line 19, delete "(f)".
Page 2, line 39, reset in roman "(i)".
Page 2, line 39, delete "(g)".
Page 3, line 3, reset in roman "(f)".
Page 3, line 4, delete "(d)".
Page 3, line 5, reset in roman "(j)".
Page 3, line 5, delete "(h)".
Page 3, line 7, reset in roman "(k)".
Page 3, line 7, delete "(i)".
Page 3, line 10, reset in roman "(l)".
Page 3, line 10, delete "(j)".
Page 3, line 14, reset in roman "(m)".
Page 3, line 14, delete "(k)".
Page 3, line 22, reset in roman "(n)".
Page 3, line 22, delete "(l)".
Page 3, line 25, reset in roman "(o)".
Page 3, line 25, delete "(m)".

(Reference is to SB 386 as printed February 18, 2011.)

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SENATE MOTION

Madam President: I move that Senate Bill 386 be amended to read as follows:

Page 5, line 20, after "committee." insert "**If the plan of reorganization is amended, the political subdivision shall post the amended plan on the Internet web site maintained or authorized by the political subdivision within seven (7) days after the amended plan is adopted.**".

(Reference is to SB 386 as printed February 18, 2011.)

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SENATE MOTION

Madam President: I move that Senate Bill 386 be amended to read as follows:

Page 8, delete lines 37 through 42, begin a new paragraph and insert:

"SECTION 6. IC 36-1.5-4-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 45. (a) Except as provided in subsections (c) through (e), a political subdivision may not take an action described in subsection (b) within a reorganizing political subdivision after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions.**

(b) A political subdivision may not take any of the following actions partially or wholly within a reorganizing political subdivision after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions unless all reorganizing political subdivisions agree by adopting identical resolutions:

- (1) Initiate an annexation of territory within the township.**
- (2) Establish a fire protection territory or fire protection district.**
- (3) Extend water, sewer, or any other infrastructure to the political subdivision.**
- (4) Expand zoning jurisdiction under IC 36-7-4-205.**

(c) This chapter does not prohibit:

- (1) a political subdivision subject to the reorganization from taking an action under subsection (b) within the political subdivision's own boundaries; and**
- (2) any of the reorganizing political subdivisions taking an action under subsection (b) for the purpose of implementing the plan of reorganization.**

(d) A political subdivision may take an action described in subsection (b) after the date the reorganization is rejected by the voters under section 33 of this chapter.

(e) If a reorganization is approved by the voters under section 34 of this chapter, a political subdivision may not take an action under subsection (b) until the earlier of the following:

- (1) The plan of reorganization has been implemented.**
- (2) One (1) year after the date the reorganization is approved under section 34 of this chapter."**

Delete page 9.

Page 10, delete lines 1 through 3.

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Page 10, line 10, delete "IC 36-1.5-4-44." and insert "**IC 36-1.5-4-45.**".

(Reference is to SB 386 as printed February 18, 2011.)

LAWSON C

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