

SENATE BILL No. 124

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1.5.

Synopsis: Local government reorganization. Eliminates the requirement that a reorganization committee must be appointed to prepare the reorganization plan as part of a proposed local government reorganization. Provides that the legislative bodies of the reorganizing political subdivisions (rather than a reorganization committee) shall prepare the reorganization plan that must be adopted by the legislative bodies before the proposed reorganization is placed on the ballot. Repeals a provision: (1) requiring the consideration of a final reorganization plan; and (2) allowing voters to petition to have the final reorganization plan placed on the ballot; if a reorganization plan is not approved within one year after the reorganization plan is presented.

Effective: January 1, 2013.

Head

January 4, 2012, read first time and referred to Committee on Local Government.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 124



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

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

1 SECTION 1. IC 36-1.5-2-6 IS REPEALED [EFFECTIVE
2 JANUARY 1, 2013]. Sec. 6: "Reorganization committee" refers to a
3 committee established under this article to assist reorganizing political
4 subdivisions with developing a plan of reorganization.

5 SECTION 2. IC 36-1.5-4-15 IS REPEALED [EFFECTIVE
6 JANUARY 1, 2013]. Sec. 15: Not later than thirty (30) days after the
7 clerk of the last political subdivision to adopt a reorganization
8 resolution under this chapter has certified the substantially identical
9 resolution to all of the political subdivisions named in the resolution;
10 the reorganizing political subdivisions shall appoint the number of
11 individuals specified in section 16 of this chapter to serve on a
12 reorganization committee to develop a plan of reorganization for the
13 reorganizing political subdivisions.

14 SECTION 3. IC 36-1.5-4-16 IS REPEALED [EFFECTIVE
15 JANUARY 1, 2013]. Sec. 16: (a) Members shall be appointed to a
16 reorganization committee as follows:

17 (1) In accordance with an agreement adopted by the reorganizing



1 political subdivisions: An agreement under this subdivision must
 2 provide that not more than a simple majority of the members
 3 appointed by each political subdivision may be members of the
 4 same political party.

5 (2) If an agreement does not provide for the membership of a
 6 reorganization committee under this chapter, three (3) members
 7 shall be appointed by the executive of each political subdivision
 8 participating in the reorganization. Not more than two (2) of the
 9 members appointed by an executive of a political subdivision may
 10 be members of the same political party.

11 (b) The members of a reorganization committee serve at the
 12 pleasure of the appointing authority. The reorganization committee
 13 shall select a chairperson and any other officers that the reorganization
 14 committee determines necessary from the members of the
 15 reorganization committee.

16 (c) The members of a reorganization committee serve without
 17 compensation. The members, however, are entitled to reimbursement
 18 from the reorganizing political subdivisions for the necessary expenses
 19 incurred in the performance of their duties.

20 (d) The reorganizing political subdivisions shall provide necessary
 21 office space, supplies, and staff to the reorganization committee. The
 22 reorganizing political subdivisions may employ attorneys, accountants,
 23 consultants, and other professionals for the reorganization committee.

24 (e) Except as otherwise provided in an agreement adopted by the
 25 reorganizing political subdivisions, claims for expenditures for the
 26 reorganization committee shall be made to the fiscal officer for the
 27 reorganizing political subdivision with the largest population. The
 28 fiscal officer shall pay the necessary expenditures and obtain
 29 reimbursement from the reorganizing political subdivisions:

30 (1) in accordance with an agreement adopted by the reorganizing
 31 political subdivisions; or

32 (2) in the absence of an agreement, in proportion to the population
 33 of each reorganizing political subdivision.

34 SECTION 4. IC 36-1.5-4-17 IS REPEALED [EFFECTIVE
 35 JANUARY 1, 2013]. Sec. 17: A reorganization committee may do the
 36 following:

37 (1) Adopt procedures governing the internal management of the
 38 reorganization committee.

39 (2) Conduct public hearings on the plan of reorganization as the
 40 reorganization committee determines necessary or appropriate.

41 (3) Review the books and records of any reorganizing political
 42 subdivision.

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- 1 (4) Administer oaths.
- 2 (5) Issue and enforce subpoenas and discovery orders under
- 3 IC 4-21.5.
- 4 SECTION 5. IC 36-1.5-4-18, AS AMENDED BY P.L.113-2010,
- 5 SECTION 110, IS AMENDED TO READ AS FOLLOWS
- 6 [EFFECTIVE JANUARY 1, 2013]: Sec. 18. (a) ~~A reorganization~~
- 7 ~~committee~~ **The legislative bodies of the reorganizing political**
- 8 **subdivisions** shall prepare a comprehensive plan of reorganization for
- 9 the reorganizing political subdivisions. The plan of reorganization
- 10 governs the actions, duties, and powers of the reorganized political
- 11 subdivision that are not specified by law.
- 12 (b) The plan of reorganization must include at least the following:
- 13 (1) The name and a description of the reorganized political
- 14 subdivision that will succeed the reorganizing political
- 15 subdivisions.
- 16 (2) A description of the boundaries of the reorganized political
- 17 subdivision.
- 18 (3) Subject to section 40 of this chapter, a description of the
- 19 taxing areas in which taxes to retire obligations of the
- 20 reorganizing political subdivisions will be imposed.
- 21 (4) A description of the membership of the legislative body, fiscal
- 22 body, and executive of the reorganized political subdivision, a
- 23 description of the election districts or appointment districts from
- 24 which officers will be elected or appointed, and the manner in
- 25 which the membership of each elected or appointed office will be
- 26 elected or appointed.
- 27 (5) A description of the services to be offered by the reorganized
- 28 political subdivision and the service areas in which the services
- 29 will be offered.
- 30 (6) The disposition of the personnel, the agreements, the assets,
- 31 and, subject to section 40 of this chapter, the liabilities of the
- 32 reorganizing political subdivisions, including the terms and
- 33 conditions upon which the transfer of property and personnel will
- 34 be achieved.
- 35 (7) Any other matter that the
- 36 ~~(A) reorganization committee determines legislative bodies of~~
- 37 **the reorganizing political subdivisions determine** to be
- 38 necessary or appropriate ~~or~~
- 39 ~~(B) legislative bodies of the reorganizing political subdivisions~~
- 40 **require the reorganization committee;**
- 41 to include in the plan of reorganization.
- 42 (8) In the case of a reorganization described in section 1(a)(9) of

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1 this chapter, if the legislative bodies of the reorganizing political
 2 subdivisions have specified that the vote on the public question
 3 regarding the reorganization shall be conducted on a countywide
 4 basis under section 30(b) of this chapter with a rejection
 5 threshold, the ~~reorganization committee~~ **legislative bodies of the**
 6 **reorganizing political subdivisions** shall include in the
 7 reorganization plan a rejection threshold, specified as a
 8 percentage, that applies for purposes of section 32(b) of this
 9 chapter. The rejection threshold must be the same for each
 10 municipality that is a party to the proposed reorganization and to
 11 the county that is a party to the proposed reorganization.

12 (9) In the case of a reorganization described in section 1(a)(9) of
 13 this chapter, the ~~reorganization committee~~ **legislative bodies of**
 14 **the reorganizing political subdivisions** shall determine and
 15 include in the reorganization plan the percentage of voters voting
 16 on the public question regarding the proposed reorganization who
 17 must vote, on a countywide basis, in favor of the proposed
 18 reorganization for the public question to be approved. This
 19 percentage is referred to in this chapter as the "countywide vote
 20 approval percentage". The countywide vote approval percentage
 21 must be greater than fifty percent (50%).

22 (10) The statement required by subsection ~~(c)~~: **(d)**.

23 ~~(c) In the case of a reorganization described in section 1(a)(9) of this~~
 24 ~~chapter, the reorganization committee may not change the decision of~~
 25 ~~the legislative bodies of the reorganizing political subdivisions~~
 26 ~~regarding whether the vote on the public question regarding the~~
 27 ~~reorganization shall be conducted on a countywide basis without a~~
 28 ~~rejection threshold or with a rejection threshold:~~

29 ~~(d) Upon completion of the plan of reorganization, the~~
 30 ~~reorganization committee shall present the plan of reorganization to the~~
 31 ~~legislative body of each of the reorganizing political subdivisions for~~
 32 ~~adoption. The initial plan of reorganization must be submitted to the~~
 33 ~~legislative body of each of the reorganizing political subdivisions not~~
 34 ~~later than one (1) year after the clerk of the last political subdivision~~
 35 ~~that adopts a reorganization resolution under this chapter has certified~~
 36 ~~the resolution to all of the political subdivisions named in the~~
 37 ~~resolution. In the case of a plan of reorganization submitted to a~~
 38 ~~political subdivision by a reorganization committee after June 30, 2010;~~
 39 ~~the political subdivision (c) **The legislative bodies of the reorganizing**~~
 40 ~~**political subdivisions** shall post a copy of the plan of reorganization~~
 41 ~~on an Internet web site maintained or authorized by the political~~
 42 ~~subdivision **subdivisions** not more than thirty (30) days after receiving~~



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1 ~~preparing~~ the plan of reorganization. ~~from the reorganization~~
2 ~~committee.~~

3 (e) ~~A reorganization committee~~ **(d) The legislative bodies of the**
4 **reorganizing political subdivisions** must include in the plan of
5 reorganization ~~submitted to a political subdivision after June 30, 2010;~~
6 a statement of:

7 (1) whether a fiscal impact analysis concerning the proposed
8 reorganization has been prepared or has not been prepared by or
9 on behalf of the ~~reorganization committee;~~ **legislative bodies of**
10 **the reorganizing political subdivisions;** and

11 (2) whether a fiscal impact analysis concerning the proposed
12 reorganization has been made available or has not been made
13 available to the public by or on behalf of the ~~reorganization~~
14 ~~committee.~~ **legislative bodies of the reorganizing political**
15 **subdivisions.**

16 SECTION 6. IC 36-1.5-4-19, AS ADDED BY P.L.186-2006,
17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JANUARY 1, 2013]: Sec. 19. The legislative body of each of the
19 reorganizing political subdivisions shall provide for the following:

20 (1) Consideration of a plan of reorganization ~~presented by a~~
21 ~~reorganization committee~~ in the form of a resolution incorporating
22 the plan of reorganization in full or by reference.

23 (2) Reading of the resolution incorporating the plan of
24 reorganization in at least two (2) separate meetings of the
25 legislative body of the political subdivision.

26 (3) Conducting a public hearing on the plan of reorganization:

27 (A) not sooner than five (5) days after notice of the public
28 hearing is published under IC 5-3-1; and

29 (B) before the legislative body takes final action on the
30 resolution to adopt the plan of reorganization.

31 SECTION 7. IC 36-1.5-4-20, AS ADDED BY P.L.186-2006,
32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JANUARY 1, 2013]: Sec. 20. At a public hearing on a plan of
34 reorganization conducted under section 19 of this chapter, or in a
35 public meeting held not more than thirty (30) days after the public
36 hearing concludes, a legislative body of a reorganizing political
37 subdivision shall do one (1) of the following:

38 (1) Adopt the plan of reorganization. ~~as presented to the~~
39 ~~legislative body.~~

40 (2) Adopt the plan of reorganization with modifications.

41 (3) Reject the plan of reorganization. ~~and order a reorganization~~
42 ~~committee to submit a new plan of reorganization within thirty~~

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- 1 (30) days after the legislative body rejects the plan of
2 reorganization.
- 3 SECTION 8. IC 36-1.5-4-22, AS ADDED BY P.L.186-2006,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2013]: Sec. 22. The legislative body of each
6 reorganizing political subdivision shall take any of the actions
7 described in section 20 of this chapter on a revised plan of
8 reorganization ~~submitted by a reorganization committee~~ and each
9 resolution modifying a plan of reorganization or revised plan of
10 reorganization in the same manner as the legislative body may take
11 action on the initially submitted plan of reorganization.
- 12 SECTION 9. IC 36-1.5-4-23, AS ADDED BY P.L.186-2006,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JANUARY 1, 2013]: Sec. 23. The legislative body of a reorganizing
15 political subdivision shall certify the legislative body's final action on
16 a plan of reorganization or revised plan of reorganization, as modified
17 by the legislative body, in the manner prescribed by the department of
18 local government finance, to the following:
- 19 (1) ~~The chair of the reorganization committee.~~
20 (2) (1) The clerk of each reorganizing political subdivision.
21 (3) (2) The county fiscal officer of each county in which a
22 reorganizing political subdivision is located.
23 (4) (3) The county recorder of each county in which a
24 reorganizing political subdivision is located.
- 25 SECTION 10. IC 36-1.5-4-23.5 IS REPEALED [EFFECTIVE
26 JANUARY 1, 2013]. ~~Sec. 23.5: The following apply if the legislative
27 bodies of all political subdivisions that have been presented with a plan
28 of reorganization under section 18(d) of this chapter have not adopted
29 a plan of reorganization; either as presented by the reorganization
30 committee or as modified by all of the political subdivisions; within
31 one (1) year after the initial plan of reorganization is presented:~~
- 32 (1) ~~Not later than one (1) month after the end of the one (1) year
33 period in which the legislative bodies must adopt a plan of
34 reorganization; the reorganization committee shall submit a final
35 plan of reorganization to the legislative bodies of the political
36 subdivisions.~~
- 37 (2) ~~Not later than one (1) month after receiving the final plan of
38 reorganization under subdivision (1); each of the legislative
39 bodies must:~~
- 40 (A) ~~hold a hearing on the final plan of reorganization; and~~
41 (B) ~~adopt either a resolution approving the final plan of
42 reorganization or a resolution rejecting the final plan of~~

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1 reorganization.
 2 If a legislative body does not adopt a resolution under this
 3 subdivision within the one (1) month period, the failure to adopt
 4 a resolution is considered to be an approval of the final plan of
 5 reorganization.

6 (3) If a legislative body adopts a resolution approving the final
 7 plan of reorganization, the legislative body shall certify its
 8 approval under section 23 of this chapter.

9 (4) If any of the legislative bodies adopts a resolution rejecting the
 10 final plan of reorganization, the registered voters of a political
 11 subdivision in which the final plan of reorganization was rejected
 12 by a legislative body under subdivision (2) may submit a petition
 13 to the clerk of the circuit court approving the final plan of
 14 reorganization and requesting that a public question be held on
 15 the final plan of reorganization. The petition must be submitted
 16 not later than one hundred eighty (180) days after the legislative
 17 body voted to reject the final plan of reorganization. If the petition
 18 is signed by at least ten percent (10%) of the voters of the political
 19 subdivision, as determined by the vote cast in the political
 20 subdivision for secretary of state at the most recent general
 21 election:

22 (A) the political subdivision is considered to have approved
 23 the holding of the public question on the final plan of
 24 reorganization, notwithstanding the vote by the legislative
 25 body rejecting the final plan of reorganization; and

26 (B) the clerk of the circuit court shall certify approval of the
 27 final plan of the reorganization and the holding of the public
 28 question in the manner specified in section 23 of this chapter.

29 SECTION 11. IC 36-1.5-4-25, AS ADDED BY P.L.186-2006,
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2013]: Sec. 25. Each county recorder receiving a
 32 certification under section 23 of this chapter ~~either from the legislative~~
 33 ~~body of a political subdivision or from a clerk of the circuit court after~~
 34 ~~a petition process under section 23.5 of this chapter in a political~~
 35 ~~subdivision~~, shall record the certification and the plan of reorganization
 36 in the records of the county recorder without charge.

37 SECTION 12. IC 36-1.5-4-26, AS ADDED BY P.L.186-2006,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JANUARY 1, 2013]: Sec. 26. When a county recorder has received
 40 certifications under this chapter from all of the reorganizing political
 41 subdivisions, ~~either from the legislative body of a political subdivision~~
 42 ~~or from a clerk of the circuit court after a petition process under section~~



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1 ~~23.5 of this chapter in a political subdivision~~, the county recorder shall
 2 notify the county election board of each county in which a reorganizing
 3 political subdivision is located that a public question on a plan of
 4 reorganization is eligible to be placed on the ballot for consideration of
 5 the voters of each of the reorganizing political subdivisions or (in the
 6 case of a reorganization described in section 1(a)(9) of this chapter) for
 7 consideration by the voters of the entire county.

8 SECTION 13. IC 36-1.5-4-33, AS ADDED BY P.L.186-2006,
 9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JANUARY 1, 2013]: Sec. 33. Except in the case of a reorganization
 11 described in section 1(a)(9) of this chapter, if a reorganization is not
 12 approved by the majority of the voters in each reorganizing political
 13 subdivision voting on the public question, the reorganization is
 14 terminated. A political subdivision in which voters of the political
 15 subdivision approved the reorganization may continue with a
 16 reorganization with another political subdivision in which the
 17 reorganization was approved only if a new plan of reorganization is
 18 approved by the voters of each political subdivision in the manner
 19 provided by this chapter. ~~The reorganization committee shall adopt a~~
 20 ~~plan to specify how matters related to the termination of the~~
 21 ~~reorganization shall be handled.~~

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