



Reprinted
January 20, 2012

SENATE BILL No. 110

DIGEST OF SB 110 (Updated January 19, 2012 3:01 pm - DI 87)

Citations Affected: IC 3-5; IC 3-8; IC 3-10; IC 3-11; IC 13-11; IC 35-51; IC 36-1; IC 36-2; IC 36-5; IC 36-9.

Synopsis: Local government issues. Provides that in counties other than Marion County, the county executive may adopt an ordinance to change the executive and legislative structure of county government. Provides that such an ordinance to change the structure of county government may be adopted only during an odd-numbered year or before July 1 of an even-numbered year. Specifies that if the ordinance is adopted by a unanimous vote of the entire membership of the county executive, the voters of the county shall not elect a board of county commissioners, but shall instead elect a single county commissioner to serve as the county executive and shall elect a county council that has the legislative and fiscal powers and duties of the county. Specifies that if the ordinance is adopted by less than a unanimous vote of the entire membership of the county executive, a public question shall be held in the county on whether the executive and legislative structure of county government should be changed. Specifies that at least 5% of the voters of a county (other than Marion County) may file a petition with the county auditor to place on the ballot in the county a public question on whether the executive and legislative structure of county government should be changed. Provides that if the public question is approved after it is placed on the ballot either after adoption of an ordinance by
(Continued next page)

Effective: Upon passage; July 1, 2012.

**Holdman, Lawson C, Boots, Smith J,
Eckerty, Gard, Wyss**

January 4, 2012, read first time and referred to Committee on Local Government.
January 12, 2012, amended, reported favorably — Do Pass.
January 19, 2012, read second time, amended, ordered engrossed.

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less than a unanimous vote of the entire membership of the county executive or after a petition is submitted by the voters, the voters of the county shall not elect a board of county commissioners, but shall instead elect a single county commissioner to serve as the county executive and shall elect a county council that has the legislative and fiscal powers and duties of the county. Provides that in a county with a single county commissioner: (1) the initial single county commissioner is elected in the second general election after the ordinance or (if required) the public question to change the structure of county government is approved; (2) the board of county commissioners is abolished when the first single county commissioner takes office; and (3) the county council shall (except in Lake County or St. Joseph County) be elected from seven single-member districts. Provides that a person is not eligible to serve as the single county commissioner more than eight years in any 12 year period. Provides that if the office of single county commissioner becomes vacant, the county council shall appoint an individual to serve as interim single county commissioner until the office is filled. Provides that in a county that has abolished the board of county commissioners and has elected a single county commissioner, the county council may adopt an ordinance changing the county government structure back to a structure that includes the election of a board of county commissioners (instead of a single county commissioner). Provides that if the ordinance is adopted unanimously, the county government structure is changed back to a structure that includes the election of a board of county commissioners. Provides that if the ordinance is adopted by less than a unanimous vote or if 5% of the voters of the county file a petition, a public question shall be held to determine whether the county government structure shall be changed back to a structure that includes the election of a board of county commissioners. Changes population parameters to reflect the population count determined under the 2010 decennial census.

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Reprinted
January 20, 2012

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. 110

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 3-5-2-22 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 22. "Executive" means **the:**
3 (1) board of county commissioners, for a county ~~not having that:~~
4 (A) **does not have** a consolidated city; **and**
5 (B) **is not subject to IC 36-2-2.5;**
6 (2) **single county commissioner elected under IC 3-10-2-13, for**
7 **a county that:**
8 (A) **does not have a consolidated city; and**
9 (B) **is subject to IC 36-2-2.5;**
10 (2) (3) mayor of the consolidated city, for a county having a
11 consolidated city;
12 (3) (4) mayor, for a city;
13 (4) (5) president of the town council, for a town; or
14 (5) (6) trustee, for a township.
15 SECTION 2. IC 3-8-1-21 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) A candidate for the
2 office of county commissioner must:

- 3 (1) have resided in the county for at least one (1) year before the
- 4 election, as provided in Article 6, Section 4 of the Constitution of
- 5 the State of Indiana; and
- 6 (2) have resided in the district in which seeking election, if
- 7 applicable, for at least six (6) months before the election.

8 **(b) This subsection applies only to elections in a county in which**
9 **a single county commissioner under IC 36-2-2.5 is elected under**
10 **IC 3-10-2-13. A candidate for the office of single county**
11 **commissioner must have resided in the county for at least one (1)**
12 **year before the election, as provided in Article 6, Section 4 of the**
13 **Constitution of the State of Indiana.**

14 SECTION 3. IC 3-10-1-19, AS AMENDED BY P.L.179-2011,
15 SECTION 6, AS AMENDED BY P.L.190-2011, SECTION 1, AND
16 AS AMENDED BY P.L.201-2011, SECTION 3, IS CORRECTED
17 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
18 PASSAGE]: Sec. 19. (a) The ballot for a primary election shall be
19 printed in substantially the following form for all the offices for which
20 candidates have qualified under IC 3-8:

21 OFFICIAL PRIMARY BALLOT

22 _____ Party

23 For paper ballots, print: To vote for a person, make a voting mark
24 (X or ✓) on or in the box before the person's name in the proper
25 column. For optical scan ballots, print: To vote for a person, darken or
26 shade in the circle, oval, or square (or draw a line to connect the arrow)
27 that precedes the person's name in the proper column. For optical scan
28 ballots that do not contain a candidate's name, print: To vote for a
29 person, darken or shade in the oval that precedes the number assigned
30 to the person's name in the proper column. For electronic voting
31 systems, print: To vote for a person, touch the screen (or press the
32 button) in the location indicated.

33 Vote for one (1) only

34 Representative in Congress

- 35 (1) AB _____
- 36 (2) CD _____
- 37 (3) EF _____
- 38 (4) GH _____

39 (b) Local public questions shall be placed on the primary election
40 ballot after the voting instructions described in subsection (a) and
41 before the offices described in subsection (e).

42 (c) The local public questions described in subsection (b) shall be

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- 1 placed:
- 2 (1) in a separate column on the ballot if voting is by paper ballot;
- 3 (2) after the voting instructions described in subsection (a) and
- 4 before the offices described in subsection (e), in the form
- 5 specified in IC 3-11-13-11 if voting is by ballot card; or
- 6 (3) **as provided by either of the following if voting is by an**
- 7 **electronic voting system:**
- 8 (A) On a separate screen for a public question.
- 9 (B) After the voting instructions described in subsection (a)
- 10 and before the offices described in subsection (e), in the form
- 11 specified in IC 3-11-14-3.5.
- 12 (d) A public question shall be placed on the primary election ballot
- 13 in the following form:
- 14 (The explanatory text for the public question,
- 15 if required by law.)
- 16 "Shall (insert public question)?"
- 17 YES
- 18 NO
- 19 ~~(b)~~ (e) The offices with candidates for nomination shall be placed
- 20 on the primary election ballot in the following order:
- 21 (1) Federal and state offices:
- 22 (A) President of the United States.
- 23 (B) United States Senator.
- 24 (C) Governor.
- 25 (D) United States Representative.
- 26 (2) Legislative offices:
- 27 (A) State senator.
- 28 (B) State representative.
- 29 (3) Circuit offices and county judicial offices:
- 30 (A) Judge of the circuit court, and unless otherwise specified
- 31 under IC 33, with each division separate if there is more than
- 32 one (1) judge of the circuit court.
- 33 (B) Judge of the superior court, and unless otherwise specified
- 34 under IC 33, with each division separate if there is more than
- 35 one (1) judge of the superior court.
- 36 (C) Judge of the probate court.
- 37 ~~(D)~~ Judge of the county court, with each division separate, as
- 38 required by IC 33-30-3-3.
- 39 ~~(E)~~ (D) Prosecuting attorney.
- 40 ~~(F)~~ (E) Circuit court clerk.
- 41 (4) County offices:
- 42 (A) County auditor.

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- 1 (B) County recorder.
 2 (C) County treasurer.
 3 (D) County sheriff.
 4 (E) County coroner.
 5 (F) County surveyor.
 6 (G) County assessor.
 7 (H) County commissioner. **However, in a county that is**
 8 **subject to IC 36-2-2.5 only one (1) county commissioner**
 9 **shall be elected.**
 10 (I) County council member.
 11 (5) Township offices:
 12 (A) Township assessor (only in a township referred to in
 13 IC 36-6-5-1(d)).
 14 (B) Township trustee.
 15 (C) Township board member.
 16 (D) Judge of the small claims court.
 17 (E) Constable of the small claims court.
 18 (6) City offices:
 19 (A) Mayor.
 20 (B) Clerk or clerk-treasurer.
 21 (C) Judge of the city court.
 22 (D) City-county council member or common council member.
 23 (7) Town offices:
 24 (A) Clerk-treasurer.
 25 (B) Judge of the town court.
 26 (C) Town council member.
 27 ~~(e)~~ (f) The political party offices with candidates for election shall
 28 be placed on the primary election ballot in the following order after the
 29 offices described in subsection ~~(b)~~ (e):
 30 (1) Precinct committeeman.
 31 (2) State convention delegate.
 32 ~~(d)~~ (g) The following local offices to be elected at the primary
 33 election and public questions shall be placed on the primary election
 34 ballot in the following order after the offices described in subsection
 35 ~~(c)~~ (f).
 36 ~~(1) School board offices to be elected at the primary election.~~
 37 ~~(2) Other (1) Local offices to be elected at the primary election.~~
 38 ~~(3) (2) Local public questions.~~
 39 ~~(e)~~ (h) The offices and public questions described in subsection ~~(d)~~
 40 (g) shall be placed:
 41 (1) in a separate column on the ballot if voting is by paper ballot;
 42 (2) after the offices described in subsection ~~(c)~~ (f) in the form

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1 specified in IC 3-11-13-11 if voting is by ballot card; or
 2 (3) either:
 3 (A) on a separate screen for each office or public question; or
 4 (B) after the offices described in subsection ~~(c)~~ (f) in the form
 5 specified in IC 3-11-14-3.5;
 6 if voting is by an electronic voting system.

7 *(f) A public question shall be placed on the primary election ballot*
 8 *in the following form:*

9 *(The explanatory text for the public question,*
 10 *if required by law.)*

11 *"Shall (insert public question)?"*

12 *ff YES*

13 *ff NO*

14 SECTION 4. IC 3-10-2-13, AS AMENDED BY P.L.146-2008,
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 13. The following public officials shall be
 17 elected at the general election before their terms of office expire and
 18 every four (4) years thereafter:

- 19 (1) Clerk of the circuit court.
- 20 (2) County auditor.
- 21 (3) County recorder.
- 22 (4) County treasurer.
- 23 (5) County sheriff.
- 24 (6) County coroner.
- 25 (7) County surveyor.
- 26 (8) County assessor.
- 27 (9) County commissioner. **However, in a county that is subject**
 28 **to IC 36-2-2.5 only one (1) county commissioner shall be**
 29 **elected.**
- 30 (10) County council member.
- 31 (11) Township trustee.
- 32 (12) Township board member.
- 33 (13) Township assessor (only in a township referred to in
 34 IC 36-6-5-1(d)).
- 35 (14) Judge of a small claims court.
- 36 (15) Constable of a small claims court.

37 SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.190-2011,
 38 SECTION 5, AND AS AMENDED BY P.L.201-2011, SECTION 5, IS
 39 CORRECTED AND AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE UPON PASSAGE]: Sec. 12. The following offices shall
 41 be placed on the general election ballot in the following order *after the*
 42 *public questions described in section 10(a) of this chapter:*

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- 1 (1) Federal and state offices:
 2 (A) President and Vice President of the United States.
 3 (B) United States Senator.
 4 (C) Governor and lieutenant governor.
 5 (D) Secretary of state.
 6 (E) Auditor of state.
 7 (F) Treasurer of state.
 8 (G) Attorney general.
 9 (H) Superintendent of public instruction.
 10 (I) United States Representative.
- 11 (2) Legislative offices:
 12 (A) State senator.
 13 (B) State representative.
- 14 (3) Circuit offices and county judicial offices:
 15 (A) Judge of the circuit court, and unless otherwise specified
 16 under IC 33, with each division separate if there is more than
 17 one (1) judge of the circuit court.
 18 (B) Judge of the superior court, and unless otherwise specified
 19 under IC 33, with each division separate if there is more than
 20 one (1) judge of the superior court.
 21 (C) Judge of the probate court.
 22 ~~(D) Judge of the county court, with each division separate, as~~
 23 ~~required by IC 33-30-3-3.~~
 24 ~~(D)~~ (D) Prosecuting attorney.
 25 ~~(E)~~ (E) Clerk of the circuit court.
- 26 (4) County offices:
 27 (A) County auditor.
 28 (B) County recorder.
 29 (C) County treasurer.
 30 (D) County sheriff.
 31 (E) County coroner.
 32 (F) County surveyor.
 33 (G) County assessor.
 34 (H) County commissioner. **However, in a county that is**
 35 **subject to IC 36-2-2.5 only one (1) county commissioner**
 36 **shall be elected.**
 37 (I) County council member.
- 38 (5) Township offices:
 39 (A) Township assessor (only in a township referred to in
 40 IC 36-6-5-1(d)).
 41 (B) Township trustee.
 42 (C) Township board member.

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- 1 (D) Judge of the small claims court.
 2 (E) Constable of the small claims court.
 3 (6) City offices:
 4 (A) Mayor.
 5 (B) Clerk or clerk-treasurer.
 6 (C) Judge of the city court.
 7 (D) City-county council member or common council member.
 8 (7) Town offices:
 9 (A) Clerk-treasurer.
 10 (B) Judge of the town court.
 11 (C) Town council member.

12 SECTION 6. IC 13-11-2-74 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 74. "Executive"
 14 means the:

- 15 (1) board of commissioners of a county ~~not having that:~~
 16 (A) **does not have** a consolidated city; **and**
 17 (B) **is not subject to IC 36-2-2.5;**
 18 (2) **single county commissioner elected under IC 3-10-2-13, for**
 19 **a county that:**
 20 (A) **does not have a consolidated city; and**
 21 (B) **is subject to IC 36-2-2.5;**
 22 ~~(2)~~ (3) mayor of the consolidated city, for a county having a
 23 consolidated city;
 24 ~~(3)~~ (4) mayor of a city; or
 25 ~~(4)~~ (5) president of the town council of a town.

26 SECTION 7. IC 35-51-36-1, AS ADDED BY P.L.70-2011,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 1. The following statutes define crimes in
 29 IC 36:

- 30 IC 36-2-2-13 (Concerning county government).
 31 **IC 36-2-2.5-15 (Concerning single county commissioners).**
 32 IC 36-2-6-8 (Concerning county government).
 33 IC 36-2-6-12 (Concerning county government).
 34 IC 36-2-7-18 (Concerning county government).
 35 IC 36-2-8-6 (Concerning county government).
 36 IC 36-2-9-13 (Concerning county government).
 37 IC 36-2-9-14 (Concerning county government).
 38 IC 36-2-9.5-7 (Concerning county government).
 39 IC 36-2-9.5-9 (Concerning county government).
 40 IC 36-2-13-5 (Concerning county government).
 41 IC 36-2-14-10 (Concerning county government).
 42 IC 36-2-14-17 (Concerning county government).

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- 1 IC 36-2-14-21 (Concerning county government).
 2 IC 36-4-8-13 (Concerning government of cities and towns).
 3 IC 36-7-12-27.5 (Concerning planning and development).
 4 IC 36-7-14-40 (Concerning planning and development).
 5 IC 36-7-15.1-27 (Concerning planning and development).
 6 IC 36-7-30-28 (Concerning planning and development).
 7 IC 36-7-30.5-36 (Concerning planning and development).
 8 IC 36-8-3.5-23 (Concerning public safety).
 9 IC 36-8-10-9 (Concerning public safety).
 10 IC 36-8-16-16 (Concerning public safety).
 11 IC 36-8-16.5-47 (Concerning public safety).
 12 IC 36-8-16.5-48 (Concerning public safety).
 13 IC 36-8-16.5-49 (Concerning public safety).
 14 IC 36-9-14-7 (Concerning transportation and public works).
 15 IC 36-10-3-39 (Concerning recreation, culture, and community
 16 facilities).
 17 IC 36-10-4-5 (Concerning recreation, culture, and community
 18 facilities).
 19 IC 36-10-4-40 (Concerning recreation, culture, and community
 20 facilities).
 21 SECTION 8. IC 36-1-2-5 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 5. "Executive" means **the**:
 23 (1) board of commissioners, for a county ~~not having that~~:
 24 (A) **does not have** a consolidated city; **and**
 25 (B) **is not subject to IC 36-2-2.5**;
 26 (2) **single county commissioner elected under IC 3-10-2-13, for**
 27 **a county that**:
 28 (A) **does not have a consolidated city; and**
 29 (B) **is subject to IC 36-2-2.5**;
 30 (2) (3) mayor of the consolidated city, for a county having a
 31 consolidated city;
 32 (3) (4) mayor, for a city;
 33 (4) (5) president of the town council, for a town;
 34 (5) (6) trustee, for a township;
 35 (6) (7) superintendent, for a school corporation; or
 36 (7) (8) chief executive officer, for any other political subdivision.
 37 SECTION 9. IC 36-1-2-9, AS AMENDED BY P.L.186-2006,
 38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 9. "Legislative body" means the:
 40 (1) board of county commissioners, for a county not subject to
 41 **IC 36-2-2.5**, IC 36-2-3.5, or IC 36-3-1;
 42 (2) county council, for a county subject to **IC 36-2-2.5** or

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- 1 IC 36-2-3.5;
- 2 (3) city-county council, for a consolidated city or county having
- 3 a consolidated city;
- 4 (4) common council, for a city other than a consolidated city;
- 5 (5) town council, for a town;
- 6 (6) township board, for a township;
- 7 (7) governing body of any other political subdivision that has a
- 8 governing body; or
- 9 (8) chief executive officer of any other political subdivision that
- 10 does not have a governing body.

11 SECTION 10. IC 36-1-3-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If there is a
 13 constitutional or statutory provision requiring a specific manner for
 14 exercising a power, a unit wanting to exercise the power must do so in
 15 that manner.

16 (b) If there is no constitutional or statutory provision requiring a
 17 specific manner for exercising a power, a unit wanting to exercise the
 18 power must either:

- 19 (1) if the unit is a county or municipality, adopt an ordinance
- 20 prescribing a specific manner for exercising the power;
- 21 (2) if the unit is a township, adopt a resolution prescribing a
- 22 specific manner for exercising the power; or
- 23 (3) comply with a statutory provision permitting a specific manner
- 24 for exercising the power.

25 (c) An ordinance under subsection (b)(1) must be adopted as
 26 follows:

- 27 (1) In a municipality, by the legislative body of the municipality.
- 28 (2) In a county subject to **IC 36-2-2.5**, IC 36-2-3.5, or IC 36-3-1,
- 29 by the legislative body of the county.
- 30 (3) In any other county, by the executive of the county.

31 (d) A resolution under subsection (b)(2) must be adopted by the
 32 legislative body of the township.

33 SECTION 11. IC 36-2-2-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as**
 35 **specifically provided**, this chapter **applies to all counties not does not**
 36 **apply to the following:**

- 37 (1) **A county** having a consolidated city.
- 38 (2) **A county in which a single county commissioner has been**
- 39 **elected and is serving under IC 36-2-2.5.**

40 SECTION 12. IC 36-2-2-4, AS AMENDED BY P.L.230-2005,
 41 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 4. (a) This subsection does not apply to a

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county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred **fifty** thousand (~~200,000~~) **(250,000)** but less than **three two** hundred **seventy** thousand (~~300,000~~) **(270,000)**.

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) the members of the Indiana election commission;
- (2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives. **If a county to which this subsection applies adopts a county government structure in which a single county commissioner is elected under IC 36-2-2.5, the county redistricting commission under this subsection is not abolished and continues in existence for purposes of dividing, as necessary, the county into county council districts.**

(c) This subsection applies to a county having a population of more than two hundred **fifty** thousand (~~200,000~~) **(250,000)** but less than **three two** hundred **seventy** thousand (~~300,000~~) **(270,000)**. The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

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- 1 (1) be compact, subject only to natural boundary lines (such as
- 2 railroads, major highways, rivers, creeks, parks, and major
- 3 industrial complexes);
- 4 (2) contain, as nearly as is possible, equal population; and
- 5 (3) not cross precinct lines.
- 6 (e) A division under subsection (a), (b), or (c) shall be made:
- 7 (1) during the first year after a year in which a federal decennial
- 8 census is conducted; and
- 9 (2) when the county adopts an order declaring a county boundary
- 10 to be changed under IC 36-2-1-2.
- 11 (f) A division under subsection (a), (b), or (c) may be made in any
- 12 odd-numbered year not described in subsection (e).
- 13 SECTION 13. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE
- 14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 15 UPON PASSAGE]:
- 16 **Chapter 2.4. Determination of County Government Structure**
- 17 **Sec. 1. This chapter does not apply to a county having a**
- 18 **consolidated city.**
- 19 **Sec. 2. (a) Subject to subsection (b), the county executive may**
- 20 **adopt an ordinance providing that the voters of the county shall**
- 21 **elect:**
- 22 (1) a single county commissioner under IC 36-2-2.5 who has
- 23 the executive powers and duties of the county; and
- 24 (2) a county council that has the legislative and fiscal powers
- 25 and duties of the county.
- 26 (b) An ordinance may be adopted under this chapter only:
- 27 (1) during an odd-numbered year; or
- 28 (2) before July 1 of an even-numbered year.
- 29 (c) If the ordinance is adopted by a unanimous vote of the entire
- 30 membership of the county executive, the executive and legislative
- 31 structure and functions of the county are reorganized under
- 32 IC 36-2-2.5.
- 33 (d) If the ordinance is adopted by less than a unanimous vote of
- 34 the entire membership of the county executive, a public question
- 35 shall be held in the county on whether the executive and legislative
- 36 structure and functions of the county should be reorganized under
- 37 IC 36-2-2.5.
- 38 (e) If an ordinance described in subsection (d) is adopted, the
- 39 county auditor shall certify the adoption of the ordinance to the
- 40 county election board under IC 3-10-9. The public question shall
- 41 be placed on the ballot in accordance with IC 3-10-9.
- 42 **Sec. 3. If an ordinance is certified under section 2(e) of this**

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1 chapter, the county election board shall place the following public
2 question on the ballot at the next general election held in the
3 county:

4 "Shall the county government of (insert the name of the
5 county) County be reorganized to place all executive powers
6 in a single county commissioner and to place all legislative
7 and fiscal powers in the county council?".

8 Sec. 4. IC 3, except where inconsistent with this chapter, applies
9 to a public question placed on the ballot under this chapter.

10 Sec. 5. If a majority of the voters of a county who vote on a
11 public question placed on the ballot under this chapter vote in
12 favor of the public question, the executive and legislative structure
13 and functions of the county shall be reorganized under IC 36-2-2.5.

14 SECTION 14. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]:

17 **Chapter 2.5. Single County Commissioner**

18 Sec. 1. Except as specifically provided by law, this chapter
19 applies to each county:

- 20 (1) that does not have a consolidated city; and
- 21 (2) in which:
 - 22 (A) an ordinance under IC 36-2-2.4 making the county
 - 23 executive a single county commissioner has been approved
 - 24 by a unanimous vote of the entire membership of the
 - 25 county executive; or
 - 26 (B) a local public question under IC 36-2-2.4 or IC 36-2-2.6
 - 27 making the county executive a single county commissioner
 - 28 has been approved by the voters of the county.

29 Sec. 2. As used in this chapter, "single county commissioner"
30 means the single county commissioner elected under IC 3-10-2-13.

31 Sec. 3. In a county to which this chapter applies:

- 32 (1) the voters of the county:
 - 33 (A) shall elect one (1) county commissioner in the second
 - 34 general election after the ordinance or local public
 - 35 question under IC 36-2-2.4 or IC 36-2-2.6 is approved and
 - 36 every four (4) years thereafter; and
 - 37 (B) beginning with the second general election after the
 - 38 ordinance or local public question under IC 36-2-2.4 or
 - 39 IC 36-2-2.6 is approved, shall not elect a board of county
 - 40 commissioners;
- 41 (2) the board of county commissioners for the county is
- 42 abolished January 1 of the year following the year in which

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1 the first single county commissioner is elected;
2 (3) notwithstanding IC 36-2-2-3, the term of each county
3 commissioner serving on December 31 of the year in which
4 the first single county commissioner is elected expires January
5 1 of the year following the year in which the first single county
6 commissioner is elected; and

7 (4) except as provided in IC 36-2-3-4.1(b), the county council
8 shall divide the county into seven (7) single-member county
9 council districts as required by IC 36-2-3-4.1.

10 Sec. 4. (a) The term of office of a single county commissioner is
11 four (4) years, beginning January 1 after election and continuing
12 until a successor is elected and qualified. An individual is not
13 eligible to serve as the single county commissioner more than eight
14 (8) years in any period of twelve (12) years.

15 (b) To be eligible for election as the single county commissioner,
16 an individual must meet the qualifications under IC 3-8-1-21. If an
17 individual does not remain a resident of the county after taking
18 office as the single county commissioner, the individual forfeits the
19 office. The county legislative body shall declare the office vacant
20 whenever the single county commissioner forfeits the office under
21 this subsection.

22 (c) If the office of single county commissioner becomes vacant,
23 the county council shall appoint an individual to serve as the single
24 county commissioner until the office is filled under IC 3-13.

25 Sec. 5. (a) On January 1 following the year in which the first
26 single county commissioner is elected, all property, assets, funds,
27 equipment, records, rights, contracts, obligations, and liabilities of
28 the board of county commissioners of a county are transferred to
29 or assumed by the single county commissioner.

30 (b) The abolishment of the board of county commissioners of a
31 county on January 1 following the year in which the first single
32 county commissioner is elected does not invalidate any:

33 (1) ordinances, resolutions, fees, schedules, or other actions
34 adopted or taken by the board of county commissioners
35 before the board is abolished; or

36 (2) appointments made by the board of county commissioners
37 before the board is abolished.

38 Sec. 6. (a) All powers and duties of the county that are executive
39 or administrative in nature (including any power of appointment
40 related to executive or administrative functions) shall be exercised
41 or performed by the single county commissioner, except to the
42 extent that these powers and duties are expressly assigned by law

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1 to another elected or appointed officer. The single county
2 commissioner shall transact the business of the county in the name
3 of "The County Commissioner of the County of _____".

4 (b) For purposes of a county subject to this chapter, after
5 December 31 of the year in which the first single county
6 commissioner is elected, any reference in:

- 7 (1) the Indiana Code;
- 8 (2) the Indiana Administrative Code;
- 9 (3) an ordinance or resolution; or
- 10 (4) any deed, lease, contract, or other official document or
11 instrument;

12 to the board of commissioners pertaining to the executive powers
13 of a county shall be considered a reference to the single county
14 commissioner of the county.

15 (c) For purposes of a county subject to this chapter, after
16 December 31 of the year in which the first single county
17 commissioner is elected, any reference in:

- 18 (1) the Indiana Code;
- 19 (2) the Indiana Administrative Code;
- 20 (3) an ordinance or resolution; or
- 21 (4) any deed, lease, contract, or other official document or
22 instrument;

23 related to the executive powers and duties of the board of county
24 commissioners shall be considered a reference to the powers and
25 duties of the single county commissioner of the county.

26 (d) For purposes of a county subject to this chapter, after
27 December 31 of the year in which the first single county
28 commissioner is elected, the county council has the legislative and
29 fiscal powers and duties of the county under IC 36-2-3.7.

30 Sec. 7. The single county commissioner shall do the following:

- 31 (1) Report on the condition of the county before March 1 of
32 each year to the county legislative body and to the county
33 residents.
- 34 (2) Recommend before March 1 of each year to the county
35 legislative body any action or program the single county
36 commissioner considers necessary for the improvement of the
37 county and the welfare of county residents.
- 38 (3) Submit to the county legislative body an annual budget in
39 accordance with IC 36-2-5.
- 40 (4) Establish procedures to be followed by all county
41 departments, offices, and agencies under the single county
42 commissioner's jurisdiction to the extent these procedures are

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not expressly assigned by law to another elected or appointed officer.

(5) Administer all statutes, ordinances, and regulations applicable to the county, to the extent the administration of these matters is not expressly assigned by law to another elected or appointed officer.

(6) Supervise the care and custody of all county property.

(7) Supervise the collection of revenues, control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned by law to another elected or appointed officer.

(8) Review, analyze, and forecast trends for county services and finances and programs of all county governmental entities, and report on and make recommendations concerning the services, finances, and programs to the county legislative body by March 15 of each year.

(9) Negotiate contracts for the county.

(10) Make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Do the following in January of each year:

(A) Make a settlement with the county treasurer for the preceding calendar year and include a copy of the settlement sheet in the order book of the single county commissioner.

(B) Make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The statement must include the name of and total compensation paid to each county officer, deputy, and employee. The single county commissioner shall post this statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.

(13) Perform other duties and functions that are assigned to the single county commissioner by statute or ordinance.

Sec. 8. The single county commissioner may do any of the following:

(1) Order any department, office, or agency under the single county commissioner's jurisdiction to undertake any task for

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1 another department, office, or agency under the single county
 2 commissioner's jurisdiction on a temporary basis, if necessary
 3 for the proper and efficient administration of county
 4 government.
 5 (2) Establish and administer centralized budgeting,
 6 centralized personnel selection, and centralized purchasing.
 7 (3) Audit the accounts of officers who deal with money
 8 belonging to or appropriated for the benefit of the county.
 9 (4) Approve accounts chargeable against the county and
 10 direct the raising of money necessary for county expenses.
 11 (5) Make orders concerning county property, including orders
 12 for:
 13 (A) the sale of the county's public buildings and the
 14 acquisition of land in the county seat on which to build new
 15 public buildings; and
 16 (B) the acquisition of land for a public square and the
 17 maintenance of that square.
 18 However, a conveyance or purchase by a county of land
 19 having a value of one thousand dollars (\$1,000) or more must
 20 be authorized by an ordinance of the county legislative body
 21 fixing the terms and conditions of the transaction.
 22 Sec. 9. (a) The single county commissioner shall establish and
 23 maintain a county courthouse, county jail, and public offices for
 24 the county clerk, the county auditor, the county recorder, the
 25 county treasurer, the county sheriff, and the county surveyor.
 26 (b) Offices for the county surveyor must be in the courthouse or
 27 at the county seat.
 28 (c) Offices for the county sheriff may be located:
 29 (1) in the courthouse;
 30 (2) inside the corporate limits of the county seat; or
 31 (3) outside the corporate limits of the county seat but within
 32 the limits of the county.
 33 Sec. 10. (a) The single county commissioner may grant licenses,
 34 permits, or franchises for the use of county property if the licenses,
 35 permits, or franchises:
 36 (1) are not exclusive;
 37 (2) are of a definite duration; and
 38 (3) are assignable only with the consent of the single county
 39 commissioner.
 40 (b) If a public utility or municipally owned or operated utility
 41 that carries on business outside the corporate boundaries of
 42 municipalities in the county is engaged in an activity substantially

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1 similar to that for which a license, permit, or franchise for the use
 2 of county property is sought, the single county commissioner may
 3 grant the license, permit, or franchise only with the consent of the
 4 utility regulatory commission. The commission may give its
 5 consent only if the commission determines, after a public hearing
 6 of all interested parties, that public necessity and convenience
 7 require the substantially similar activity.

8 (c) The provisions of this section that concern securing the
 9 consent of the utility regulatory commission do not apply to
 10 municipally owned or operated utilities.

11 Sec. 11. Notwithstanding any other law, if a statute requires a
 12 county executive to take an executive action by ordinance or
 13 resolution, a single county commissioner shall instead take the
 14 action by issuing an executive order.

15 Sec. 12. (a) If the single county commissioner is disqualified
 16 from acting in a quasi-judicial proceeding, the single county
 17 commissioner shall cease to act in that proceeding. Not later than
 18 ten (10) days after the finding that the single county commissioner
 19 is disqualified to act in a proceeding, the county auditor shall send
 20 a certified copy of the record of the proceeding to the judge of the
 21 circuit court for the county. If the judge affirms the
 22 disqualification of the single county commissioner, the judge shall
 23 appoint a disinterested and competent person to serve as a special
 24 executive in the proceeding.

25 (b) A person who consents to serve as a special executive must
 26 have the same qualifications as an elected single county
 27 commissioner. The person's appointment and oath shall be filed
 28 with the county auditor and entered on the records of the single
 29 county commissioner. A person appointed as a special executive
 30 may conduct the proceeding until a final determination is reached.

31 Sec. 13. The single county commissioner shall keep the single
 32 county commissioner's office open on each business day.

33 Sec. 14. Appointments made by the single county commissioner
 34 shall be certified by the county auditor, under the seal of the single
 35 county commissioner.

36 Sec. 15. (a) The single county commissioner may employ a
 37 person:

- 38 (1) to perform a duty required of a county officer by statute;
- 39 or
- 40 (2) on a commission or percentage basis;

41 only if the employment is expressly authorized by statute or is
 42 found by the single county commissioner to be necessary to the

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public interest.

(b) If a person's employment under subsection (a) is not expressly authorized by statute, the contract for the person's employment must be filed with the circuit court for the county, and the person must file the person's claims for compensation with that court. Any taxpayer may contest a claim under this section.

(c) A single county commissioner who recklessly violates this section commits a Class C misdemeanor and forfeits the person's office.

Sec. 16. The single county commissioner shall appear before the legislative body of the county at least once each month and at other times as needed to conduct all necessary county business.

Sec. 17. (a) If a party to a proceeding before the single county commissioner is aggrieved by a decision of the single county commissioner, the party may appeal that decision to the circuit court for the county.

(b) A person who is not a party to a proceeding before the single county commissioner may appeal a decision of the single county commissioner only if the person files with the county auditor an affidavit:

- (1) specifically setting forth the person's interest in the matter decided; and
- (2) alleging that the person is aggrieved by the decision of the single county commissioner.

(c) An appeal under this section must be taken not later than thirty (30) days after the single county commissioner makes the decision by which the appellant is aggrieved.

(d) An appellant under this section must file with the county auditor a bond conditioned on due prosecution of the appeal. The bond is subject to approval by the county auditor and must be in an amount sufficient to provide security for court costs.

(e) Not later than twenty (20) days after the county auditor receives the appeal bond, the county auditor shall prepare a complete transcript of the proceedings of the single county commissioner related to the decision appealed from and shall deliver the transcript, all documents filed during the proceedings, and the appeal bond to the clerk of the circuit court.

Sec. 18. (a) An appeal under section 17 of this chapter shall be docketed among the other causes pending in the circuit court and shall be tried as an original cause.

(b) A court may decide an appeal under section 17 of this chapter by:

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- 1 (1) affirming the decision of the single county commissioner;
- 2 or
- 3 (2) remanding the cause to the single county commissioner
- 4 with directions as to how to proceed;
- 5 and may require the single county commissioner to comply with
- 6 this decision.

7 **Sec. 19. (a)** The county auditor or the single county
 8 commissioner may administer any oaths required by this chapter.

9 **(b)** The county sheriff or a county police officer shall attend the
 10 meetings of the single county commissioner, if requested by the
 11 single county commissioner, and shall execute the single county
 12 commissioner's orders.

13 **Sec. 20. (a)** Appointments made by the single county
 14 commissioner shall be certified by the county auditor, under the
 15 seal of the single county commissioner.

16 **(b)** If a copy of the single county commissioner's proceedings
 17 has been signed and sealed by the county auditor and introduced
 18 into evidence in court, that copy is presumed to be an accurate
 19 record of the single county commissioner's proceedings.

20 **Sec. 21.** If publication of a notice, report, or statement of any
 21 kind is required and a county is liable for the cost of that
 22 publication, the single county commissioner may not make or pay
 23 for publication in more than one (1) newspaper unless publication
 24 in two (2) newspapers is required. A person who violates this
 25 section commits a Class C infraction.

26 **Sec. 22. (a)** The single county commissioner may employ and fix
 27 the compensation of an attorney to represent and advise the
 28 commissioner.

29 **(b)** For purposes of Article 2, Section 9 of the Constitution of the
 30 State of Indiana, employment by a single county commissioner as
 31 an attorney does not constitute a lucrative office.

32 SECTION 15. IC 36-2-2.6 IS ADDED TO THE INDIANA CODE
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]:

35 **Chapter 2.6. Petition for Public Question on Reorganization of**
 36 **County Government**

37 **Sec. 1.** This chapter does not apply to a county having a
 38 consolidated city.

39 **Sec. 2. (a)** The voters of a county may file a written petition with
 40 the county auditor requesting that a local public question
 41 applicable to the county be placed on the ballot under subsection

42 **(b).** The petition must:

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- 1 (1) be signed by at least five percent (5%) of the registered
- 2 voters of the county, as determined by the votes cast in the
- 3 county for secretary of state at the most recent general
- 4 election;
- 5 (2) state the public question that is required to be placed on
- 6 the ballot under subsection (b);
- 7 (3) be substantially in the form prescribed by the state board
- 8 of accounts; and
- 9 (4) be filed:
 - 10 (A) during an odd-numbered year; or
 - 11 (B) before June 1 of an even-numbered year.

12 The county auditor shall certify the petition to the county election
 13 board in accordance with IC 3-10-9-3 and to the county council of
 14 the county. The state board of accounts shall design and make
 15 available to the public the petition form to be used in the petition
 16 process described in this section.

17 (b) If the requirements of subsection (a) are satisfied, the county
 18 election board shall place the following public question on the
 19 ballot at the next general election held in the county:

20 "Shall the county government of (insert the name of the
 21 county) County be reorganized to place all executive powers
 22 in a single county commissioner and to place all legislative
 23 and fiscal powers in the county council?"

24 **Sec. 3. IC 3, except where inconsistent with this chapter, applies**
 25 **to a public question placed on the ballot under this chapter.**

26 **Sec. 4. If a majority of the voters of a county who vote on a**
 27 **public question placed on the ballot under this chapter vote in**
 28 **favor of the public question, the executive and legislative structure**
 29 **and functions of the county shall be reorganized under IC 36-2-2.5.**

30 SECTION 16. IC 36-2-2.7 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]:

33 **Chapter 2.7. Reversion to Previous County Government**
 34 **Structure**

35 **Sec. 1. This chapter does not apply to a county that has a**
 36 **consolidated city.**

37 **Sec. 2. As used in this chapter, "single county commissioner"**
 38 **means the single county commissioner elected under IC 3-10-2-13.**

39 **Sec. 3. A county that elects a single county commissioner under**
 40 **IC 36-2-2.5 may, as provided in this chapter, revert to a county**
 41 **government structure that has a board of county commissioners**
 42 **rather than a single county commissioner.**

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1 **Sec. 4. (a) Subject to subsection (b), the county council may**
 2 **adopt an ordinance providing that the voters of the county shall**
 3 **elect:**

4 **(1) a three (3) member board of commissioners that has the:**

5 **(A) executive and legislative powers and duties of the**
 6 **county if the county was not subject to IC 36-2-3.5 before**
 7 **the county's government was reorganized under**
 8 **IC 36-2-2.5; or**

9 **(B) executive powers and duties of the county if the county**
 10 **was subject to IC 36-2-3.5 before the county's government**
 11 **was reorganized under IC 36-2-2.5; and**

12 **(2) a county council that has the:**

13 **(A) fiscal powers and duties of the county if the county was**
 14 **not subject to IC 36-2-3.5 before the county's government**
 15 **was reorganized under IC 36-2-2.5; or**

16 **(B) fiscal and legislative powers and duties of the county if**
 17 **the county was subject to IC 36-2-3.5 before the county's**
 18 **government was reorganized under IC 36-2-2.5.**

19 **(b) An ordinance described in subsection (a) may be adopted**
 20 **under this chapter only during an odd-numbered year.**

21 **(c) If an ordinance described in subsection (a) is adopted by a**
 22 **unanimous vote of the entire membership of the county council, the**
 23 **executive, the executive and legislative structure, and the functions**
 24 **of the county are reorganized as provided in section 7 of this**
 25 **chapter.**

26 **(d) If an ordinance described in subsection (a) is adopted by less**
 27 **than a unanimous vote of the entire membership of the county**
 28 **council:**

29 **(1) the county auditor shall certify the adoption of the**
 30 **ordinance to the county election board under IC 3-10-9; and**

31 **(2) a public question shall be held in the county under section**
 32 **6 of this chapter on whether the executive and legislative**
 33 **structure and functions of the county should be reorganized**
 34 **under section 7 of this chapter.**

35 **Sec. 5. (a) Subject to the requirements of this chapter, the voters**
 36 **of a county may file a written petition with the county auditor**
 37 **requesting that a local public question on whether the executive**
 38 **and legislative structure and functions of the county should be**
 39 **reorganized under section 7 of this chapter be placed on the ballot**
 40 **under section 6 of this chapter. The petition must:**

41 **(1) be signed by at least five percent (5%) of the registered**
 42 **voters of the county, as determined by the votes cast in the**

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1 county for secretary of state at the most recent general
 2 election;
 3 (2) state the public question that is required to be placed on
 4 the ballot under section 6 of this chapter;
 5 (3) be substantially in the form prescribed by the state board
 6 of accounts; and
 7 (4) be filed:
 8 (A) during an odd-numbered year; or
 9 (B) before June 1 of an even-numbered year.
 10 (b) The county auditor shall certify the petition to the county
 11 election board in accordance with IC 3-10-9-3 and to the county
 12 council of the county.
 13 (c) The state board of accounts shall design and make available
 14 to the public the petition form to be used in the petition process
 15 described in this section.
 16 Sec. 6. (a) If an ordinance is certified under section 4(d) of this
 17 chapter or a sufficient petition is certified under section 5(b) of this
 18 chapter, the county election board shall place the following public
 19 question on the ballot at the next general election held in the county
 20 after the ordinance or petition is certified:
 21 "Shall the county government of (insert the name of the
 22 county) County be reorganized to elect a board of county
 23 commissioners rather than a single county commissioner?".
 24 (b) IC 3, except where inconsistent with this chapter, applies to
 25 a public question placed on the ballot under this chapter. A public
 26 question under this section must be certified in accordance with
 27 IC 3-10-9-3 and shall be placed on the ballot in accordance with
 28 IC 3-10-9.
 29 (c) If a majority of the voters of a county who vote on a public
 30 question placed on the ballot under this section vote in favor of the
 31 public question, the executive and legislative structure and
 32 functions of the county shall be reorganized under section 7 of this
 33 chapter.
 34 Sec. 7. The following apply if an ordinance is adopted by a
 35 unanimous vote of the entire membership of the county council as
 36 described in section 4(c) of this chapter or if a majority of the
 37 voters of a county who vote on a public question placed on the
 38 ballot under section 6 of this chapter vote in favor of the public
 39 question:
 40 (1) The executive, the executive and legislative structure, and
 41 the functions of the county are reorganized as provided in this
 42 section.

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- 1 **(2) The voters of the county shall elect:**
 2 **(A) a three (3) member board of commissioners that has**
 3 **the:**
 4 **(i) executive and legislative powers and duties of the**
 5 **county if the county was not subject to IC 36-2-3.5 before**
 6 **the county's government was reorganized under**
 7 **IC 36-2-2.5; or**
 8 **(ii) executive powers and duties of the county if the**
 9 **county was subject to IC 36-2-3.5 before the county's**
 10 **government was reorganized under IC 36-2-2.5; and**
 11 **(B) a county council that has the:**
 12 **(i) fiscal powers and duties of the county if the county**
 13 **was not subject to IC 36-2-3.5 before the county's**
 14 **government was reorganized under IC 36-2-2.5; or**
 15 **(ii) fiscal and legislative powers and duties of the county**
 16 **if the county was subject to IC 36-2-3.5 before the**
 17 **county's government was reorganized under IC 36-2-2.5.**
 18 **(3) The office of the board of county commissioners shall be**
 19 **placed on the primary election ballot for the county in the**
 20 **year of the second general election after the ordinance or local**
 21 **public question is approved. The office of single county**
 22 **commissioner shall not be placed on the primary election**
 23 **ballot for the county in the year of the second general election**
 24 **after the ordinance or local public question is approved.**
 25 **(4) The office of the board of county commissioners shall be**
 26 **placed on the general election ballot for the county at the**
 27 **second general election after the ordinance or local public**
 28 **question is approved and, except as provided in subdivision**
 29 **(6) to provide for staggered terms, every four (4) years**
 30 **thereafter. Beginning with the second general election after**
 31 **the ordinance or local public question is approved, the county**
 32 **shall not elect a single county commissioner.**
 33 **(5) On January 1 in the year following the year that the board**
 34 **of commissioners is elected under this chapter, the following**
 35 **occur:**
 36 **(A) The office of single county commissioner is abolished,**
 37 **and the term of the single county commissioner expires.**
 38 **(B) The county is not subject to IC 36-2-2.5 and**
 39 **IC 36-2-3.7.**
 40 **(C) The county executive is the board of county**
 41 **commissioners elected under IC 36-2-2. The board of**
 42 **county commissioners has all powers that are executive or**

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administrative in nature.

(D) If the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5, the county legislative body is the board of county commissioners. All powers that are legislative in nature are transferred from the county fiscal body to the board of county commissioners.

(E) If the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5, the county legislative body is the county council.

(F) The county council is the county fiscal body.

(G) All property, assets, funds, equipment, records, rights, contracts, obligations, and liabilities of the single county commissioner are transferred to or assumed by the board of county commissioners.

(6) Notwithstanding IC 36-2-2-3, to provide for staggered terms of the members of the board of county commissioners elected after the structure and functions of the county are reorganized under this chapter, the county council shall, before the primary election described in subdivision (3), adopt an ordinance specifying which of the three (3) board of county commissioners districts shall elect a member of the board of county commissioners who serves an initial term of two (2) years rather than four (4) years.

(7) The abolishment of the office of the single county commissioner on January 1 following the year in which the board of county commissioners is elected does not invalidate:

(A) any resolutions, fees, schedules, or other actions adopted or taken by the single county commissioner before the office is abolished; or

(B) any appointments made by the single county commissioner before the office is abolished.

(8) Effective with the second general election after the ordinance or local public question is approved, the county council shall be elected with four (4) single-member county council districts and three (3) at-large members under IC 36-2-3-4. The county council shall divide the county into the four (4) contiguous single-member county council districts under IC 36-2-3-4. The terms of all county council members serving at the time of the second general election after the ordinance or local public question is approved expire January 1 following the election. Notwithstanding any other law, to

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1 provide for staggered terms of the members of the county
 2 council, the county council may, before the primary election
 3 preceding the general election at which county council
 4 members will be elected as provided in this subdivision, adopt
 5 an ordinance specifying which of the seven (7) members of the
 6 county council shall serve an initial term of two (2) years
 7 rather than four (4) years.

8 SECTION 17. IC 36-2-3-4, AS AMENDED BY P.L.230-2005,
 9 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 4. (a) This subsection does not apply to a
 11 county having a population of:

- 12 (1) more than four hundred thousand (400,000) but less than
 13 seven hundred thousand (700,000); or
 14 (2) more than two hundred **fifty** thousand (~~200,000~~) (**250,000**) but
 15 less than **three two** hundred **seventy** thousand (~~300,000~~):
 16 (**270,000**).

17 **Except as provided in section 4.1 of this chapter**, the county
 18 executive shall by ordinance divide the county into four (4) contiguous,
 19 single-member districts that comply with subsection (d). If necessary,
 20 the county auditor shall call a special meeting of the executive to
 21 establish or revise districts. One (1) member of the fiscal body shall be
 22 elected by the voters of each of the four (4) districts. Three (3) at-large
 23 members of the fiscal body shall be elected by the voters of the whole
 24 county.

25 (b) This subsection applies to a county having a population of more
 26 than four hundred thousand (400,000) but less than seven hundred
 27 thousand (700,000). The county redistricting commission established
 28 under IC 36-2-2-4 shall divide the county into seven (7) single-member
 29 districts that comply with subsection (d). One (1) member of the fiscal
 30 body shall be elected by the voters of each of these seven (7)
 31 single-member districts.

32 (c) This subsection applies to a county having a population of more
 33 than two hundred **fifty** thousand (~~200,000~~) (**250,000**) but less than
 34 **three two** hundred **seventy** thousand (~~300,000~~): (**270,000**). The fiscal
 35 body shall divide the county into nine (9) single-member districts that
 36 comply with subsection (d). Three (3) of these districts must be
 37 contained within each of the three (3) districts established under
 38 IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by
 39 the voters of each of these nine (9) single-member districts.

40 (d) Single-member districts established under subsection (a), (b), or
 41 (c) must:

- 42 (1) be compact, subject only to natural boundary lines (such as

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- 1 railroads, major highways, rivers, creeks, parks, and major
- 2 industrial complexes);
- 3 (2) not cross precinct boundary lines;
- 4 (3) contain, as nearly as possible, equal population; and
- 5 (4) include whole townships, except when a division is clearly
- 6 necessary to accomplish redistricting under this section.
- 7 (e) A division under subsection (a), (b), or (c) shall be made:
- 8 (1) during the first year after a year in which a federal decennial
- 9 census is conducted; ~~and~~
- 10 (2) when the county executive adopts an order declaring a county
- 11 boundary to be changed under IC 36-2-1-2; **and**
- 12 **(3) during the year before county council members will be**
- 13 **elected under IC 36-2-2.7-7(8).**
- 14 (f) A division under subsection (a), (b), or (c) may be made in any
- 15 odd-numbered year not described in subsection (e).
- 16 SECTION 18. IC 36-2-3-4.1 IS ADDED TO THE INDIANA CODE
- 17 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 18 **UPON PASSAGE]: Sec. 4.1. (a) Except as provided in subsection**
- 19 **(b), this chapter applies to each county:**
- 20 **(1) that does not have a consolidated city; and**
- 21 **(2) in which:**
- 22 **(A) an ordinance under IC 36-2-2.4 making the county**
- 23 **executive a single county commissioner has been approved**
- 24 **by a unanimous vote of the entire membership of the**
- 25 **county executive; or**
- 26 **(B) a local public question under IC 36-2-2.4 or IC 36-2-2.6**
- 27 **making the county executive a single county commissioner**
- 28 **has been approved by the voters of the county.**
- 29 **(b) This section does not apply to a county having a population**
- 30 **of:**
- 31 **(1) more than four hundred thousand (400,000) but less than**
- 32 **seven hundred thousand (700,000); or**
- 33 **(2) more than two hundred fifty thousand (250,000) but less**
- 34 **than two hundred seventy thousand (270,000).**
- 35 **(c) Effective for the second general election after the ordinance**
- 36 **or local public question under IC 36-2-2.4 or IC 36-2-2.6 is**
- 37 **approved, the county fiscal body shall by ordinance divide the**
- 38 **county into seven (7) contiguous, single-member districts that**
- 39 **comply with subsection (d). One (1) member of the fiscal body shall**
- 40 **be elected by the voters of each of the seven (7) districts.**
- 41 **(d) Single-member districts established under subsection (c)**
- 42 **must:**

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- 1 (1) be compact, subject only to natural boundary lines (such
- 2 as railroads, major highways, rivers, creeks, parks, and major
- 3 industrial complexes);
- 4 (2) not cross precinct boundary lines;
- 5 (3) contain, as nearly as possible, equal population;
- 6 (4) include whole townships, except when a division is clearly
- 7 necessary to accomplish redistricting under this section;
- 8 (5) consider how communities of interest within the county
- 9 can best be represented; and
- 10 (6) draw the districts to provide at least one (1) representative
- 11 to each distinct community of interest to the extent
- 12 practicable and not inconsistent with other applicable law.

13 (e) A division under subsection (c) shall be made:

- 14 (1) effective for the second general election after the
- 15 ordinance or local public question under IC 36-2-2.4 or
- 16 IC 36-2-2.6 is approved; and
- 17 (2) whenever the county executive adopts an order declaring
- 18 a county boundary to be changed under IC 36-2-1-2.

19 (f) After a division is initially made under subsection (c),
 20 another division may be made in any odd-numbered year not
 21 described in subsection (e).

22 SECTION 19. IC 36-2-3.5-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as**
 24 **provided in subsection (b)**, this chapter applies to:

- 25 (1) a county having a population of:
- 26 (A) more than four hundred thousand (400,000) but less than
- 27 seven hundred thousand (700,000); or
- 28 (B) more than two hundred ~~fifty~~ thousand ~~(200,000)~~ **(250,000)**
- 29 but less than ~~three two~~ hundred ~~seventy~~ thousand ~~(300,000)~~;
- 30 **(270,000)**; and
- 31 (2) any other county not having a consolidated city, if both the
- 32 county executive and the county fiscal body adopt identical
- 33 ordinances providing for the county to be governed by this
- 34 chapter beginning on a specified effective date.

35 (b) **Except as provided in section 6(c) of this chapter, this**
 36 **chapter does not apply to a county during any period in which a**
 37 **single county commissioner elected under IC 36-2-2.5 is holding**
 38 **office.**

39 SECTION 20. IC 36-2-3.5-6 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A court may
 41 issue an order, before final hearing, to stay an election if there is
 42 sufficient evidence to withstand a motion for summary judgment that

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1 the county has not been divided into districts that comply with
 2 IC 36-2-2-4 or IC 36-2-3-4. A preliminary hearing on the question may
 3 be held upon the court's own motion.

4 (b) Final judgment on the merits in such a case shall be made within
 5 thirty (30) days of the stay of election order. If the redistricting is found
 6 not to be in compliance with law, the court shall retain jurisdiction and
 7 shall order the proper officials to submit within thirty (30) days a
 8 redistricting plan complying with law. If the proper officials fail to
 9 comply with the order, the court shall order the Indiana election
 10 commission to divide the county into districts in compliance with law.

11 **(c) If this chapter applied to a county at the time the first single**
 12 **county commissioner is elected under IC 36-2-2.5, this section**
 13 **continues to apply to the county after the election of the single**
 14 **county commissioner.**

15 SECTION 21. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE
 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]:

18 **Chapter 3.7. County Council as the County Legislative Body**

19 **Sec. 1. Except as specifically provided by law, this chapter**
 20 **applies to each county:**

- 21 (1) that does not have a consolidated city; and
 22 (2) in which:

23 (A) an ordinance under IC 36-2-2.4 making the county
 24 executive a single county commissioner has been approved
 25 by a unanimous vote of the entire membership of the
 26 county executive; or

27 (B) a local public question under IC 36-2-2.4 or IC 36-2-2.6
 28 making the county executive a single county commissioner
 29 has been approved by the voters of the county.

30 **Sec. 2. As used in this chapter, "single county commissioner"**
 31 **means the single county commissioner elected under IC 3-10-2-13.**

32 **Sec. 3. (a) In a county to which this chapter applies:**

- 33 (1) the voters of the county shall continue to elect members of
 34 the county council;
 35 (2) beginning on January 1 following the year in which the
 36 first single county commissioner is elected:

37 (A) the executive and legislative powers of the county are
 38 divided between separate branches of county government,
 39 and a power belonging to one (1) branch of county
 40 government may not be exercised by the other branch of
 41 county government;

42 (B) the county council is the county legislative body as well

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1 as the county fiscal body; and
 2 (C) the single county commissioner is the county executive
 3 of the county and has the executive and administrative
 4 powers and duties of the county as provided in IC 36-2-2.5;
 5 and
 6 (3) except as provided in IC 36-2-3-4.1(b), the county council
 7 shall divide the county into seven (7) single-member county
 8 council districts.
 9 (b) This subsection does not apply to a county described in
 10 IC 36-2-3-4.1(b). The following apply in a county to which this
 11 chapter applies:
 12 (1) Seven (7) county council members shall be elected at the
 13 second general election after the ordinance or local public
 14 question under IC 36-2-2.4 or IC 36-2-2.6 is approved.
 15 (2) The terms of all county council members serving at the
 16 time of the second general election after the ordinance or local
 17 public question under IC 36-2-2.4 or IC 36-2-2.6 is approved
 18 expire January 1 following the election.
 19 (3) Notwithstanding any other law, to provide for staggered
 20 terms of the members of the county council, the county
 21 council may, before the primary election preceding the
 22 general election described in subdivision (1), adopt an
 23 ordinance specifying which of the seven (7) members of the
 24 county council shall serve an initial term of two (2) years
 25 rather than four (4) years.
 26 Sec. 4. (a) All powers and duties of the county that are legislative
 27 in nature, including any power of appointment related to legislative
 28 functions, shall be exercised or performed by the county council
 29 functioning as the county legislative body.
 30 (b) The county council has the same legislative powers and
 31 duties that the board of county commissioners in the county had
 32 before the board of county commissioners was abolished.
 33 (c) For purposes of a county subject to this chapter, after
 34 December 31 of the year in which the first single county
 35 commissioner is elected, any reference in:
 36 (1) the Indiana Code;
 37 (2) the Indiana Administrative Code;
 38 (3) an ordinance or resolution; or
 39 (4) any deed, lease, contract, or other official document or
 40 instrument;
 41 to the board of commissioners pertaining to the legislative powers
 42 of a county shall be considered a reference to the county council of

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1 the county.
 2 (d) For purposes of a county subject to this chapter, after
 3 December 31 of the year in which the first single county
 4 commissioner is elected, any reference in:
 5 (1) the Indiana Code;
 6 (2) the Indiana Administrative Code;
 7 (3) an ordinance or resolution; or
 8 (4) any deed, lease, contract, or other official document or
 9 instrument;
 10 related to the legislative powers and duties of the board of county
 11 commissioners shall be considered a reference to the powers and
 12 duties of the county council of the county.

13 **Sec. 5. The county council may do any of the following:**
 14 (1) Establish committees that are necessary to carry out the
 15 county council's functions.
 16 (2) Employ legal and administrative personnel necessary to
 17 carry out the county council's functions.
 18 (3) Pass all ordinances, orders, resolutions, and motions for
 19 the government of the county, in the manner prescribed by
 20 IC 36-2-4.
 21 (4) Receive gifts, bequests, and grants from public or private
 22 sources.
 23 (5) Conduct investigations into the conduct of county business
 24 for the purpose of correcting deficiencies and ensuring
 25 adherence to law and county ordinances and policies.
 26 (6) Establish, by ordinance, new county departments,
 27 divisions, or agencies whenever necessary to promote efficient
 28 county government.

29 SECTION 22. IC 36-2-4-8, AS AMENDED BY P.L.159-2011,
 30 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 8. (a) An ordinance, order, or resolution is
 32 considered adopted when it is signed by the presiding officer. If
 33 required, an adopted ordinance, order, or resolution must be
 34 promulgated or published according to statute before it takes effect.

35 (b) An ordinance prescribing a penalty or forfeiture for a violation
 36 must, before it takes effect, be published once each week for two (2)
 37 consecutive weeks, according to IC 5-3-1. However, if such an
 38 ordinance is adopted by the legislative body of a county subject to
 39 **IC 36-2-2.5 or IC 36-2-3.5** and there is an urgent necessity requiring
 40 its immediate effectiveness, it need not be published if:

- 41 (1) the county executive proclaims the urgent necessity; and
 42 (2) copies of the ordinance are posted in three (3) public places in

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- 1 each of the districts of the county before it takes effect.
- 2 (c) The following apply in addition to the other requirements of this
- 3 section:
- 4 (1) An ordinance or resolution passed by the legislative body of
- 5 a county subject to **IC 36-2-2.5 or IC 36-2-3.5** is considered
- 6 adopted only if it is:
- 7 (A) approved by signature of a majority of the county
- 8 executive **(in the case of a county subject to IC 36-2-3.5) or**
- 9 **by signature of the single county commissioner (in the case**
- 10 **of a county subject to IC 36-2-2.5);**
- 11 (B) neither approved nor vetoed by a majority of the executive
- 12 **(in the case of a county subject to IC 36-2-3.5) or by the**
- 13 **single county commissioner (in the case of a county subject**
- 14 **to IC 36-2-2.5),** within ten (10) days after passage by the
- 15 legislative body; or
- 16 (C) passed over the veto of the executive by a two-thirds (2/3)
- 17 vote of the legislative body, within sixty (60) days after
- 18 presentation of the ordinance or resolution to the executive.
- 19 (2) Subject to subsection (g), the legislative body of a county
- 20 shall:
- 21 (A) subject to subdivision (3), give written notice to the
- 22 department of environmental management not later than sixty
- 23 (60) days before amendment or repeal of an environmental
- 24 restrictive ordinance; and
- 25 (B) give written notice to the department of environmental
- 26 management not later than thirty (30) days after passage,
- 27 amendment, or repeal of an environmental restrictive
- 28 ordinance.
- 29 (3) Upon written request by the legislative body, the department
- 30 of environmental management may waive the notice requirement
- 31 of subdivision (2)(A).
- 32 (4) An environmental restrictive ordinance passed or amended
- 33 after 2009 by the legislative body must state the notice
- 34 requirements of subdivision (2).
- 35 (5) The failure of an environmental restrictive ordinance to
- 36 comply with subdivision (4) does not void the ordinance.
- 37 (d) After an ordinance or resolution passed by the legislative body
- 38 of a county subject to **IC 36-2-2.5 or IC 36-2-3.5** has been signed by
- 39 the presiding officer, the county auditor shall present it to the county
- 40 executive, and record the time of the presentation. Within ten (10) days
- 41 after an ordinance or resolution is presented to it, the executive shall:
- 42 (1) approve the ordinance or resolution, by signature of a majority

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1 of the executive (**in the case of a county subject to IC 36-2-3.5**)
 2 **or by signature of the single county commissioner (in the case**
 3 **of a county subject to IC 36-2-2.5),** and send the legislative body
 4 a message announcing its approval; or
 5 (2) veto the ordinance or resolution, by returning it to the
 6 legislative body with a message announcing its veto and stating
 7 its reasons for the veto.

8 (e) This section (other than subsection (c)(2)) does not apply to a
 9 zoning ordinance or amendment to a zoning ordinance, or a resolution
 10 approving a comprehensive plan, that is adopted under IC 36-7.

11 (f) An ordinance increasing a building permit fee on new
 12 development must:

- 13 (1) be published:
 - 14 (A) one (1) time in accordance with IC 5-3-1; and
 - 15 (B) not later than thirty (30) days after the ordinance is
 - 16 adopted by the legislative body in accordance with IC 5-3-1;
 - 17 and
 - 18 (2) delay the implementation of the fee increase for ninety (90)
 - 19 days after the date the ordinance is published under subdivision
 - 20 (1).

21 (g) The notice requirements of subsection (c)(2) apply only if the
 22 municipal corporation received under IC 13-25-5-8.5(f) written notice
 23 that the department is relying on the environmental restrictive
 24 ordinance referred to in subsection (c)(2) as part of a risk based
 25 remediation proposal:

- 26 (1) approved by the department; and
- 27 (2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or
- 28 IC 13-25-5.

29 SECTION 23. IC 36-5-1-20 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section
 31 does not apply to a town described by IC 36-5-1-11.5.

32 (b) A town subject to this chapter may be dissolved if the county
 33 election board of the county in which the greatest percentage of
 34 population of the town is located conducts a public hearing and finds
 35 that the town has not elected town officers or had a functioning town
 36 government during the preceding ten (10) years.

37 (c) The county election board shall certify the board's findings to the
 38 county executive, who may adopt an ordinance or (in a county subject
 39 to **IC 36-2-2.5 or IC 36-2-3.5**) issue an order to dissolve the town.

40 SECTION 24. IC 36-9-13-2 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. For purposes of this
 42 chapter, the following are considered the governing bodies of their

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1 respective eligible entities:

- 2 (1) Board of commissioners, for a county not subject to
3 **IC 36-2-2.5**, IC 36-2-3.5 or IC 36-3-1.
4 (2) County council, for a county subject to **IC 36-2-2.5 or**
5 IC 36-2-3.5.
6 (3) City-county council, for a consolidated city or county having
7 a consolidated city.
8 (4) Common council, for a city other than a consolidated city.
9 (5) Town council, for a town.
10 (6) Trustee and township board, for a civil or school township.
11 (7) Board of school trustees, board of school commissioners, or
12 school board, for a school corporation.
13 (8) Board of trustees, for a health and hospital corporation.

14 SECTION 25. IC 36-9-27-5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except in a
16 county having a consolidated city **or as provided in subsection (d)**,
17 the drainage board consists of either:

- 18 (1) the county executive; or
19 (2) three (3) or five (5) persons, at least one (1) of whom must be
20 a member of the executive, appointed by the executive;
21 at the option of the executive. Appointees under subdivision (2) must
22 be resident freeholders of the county who are knowledgeable in
23 drainage matters. Freeholders appointed to the board serve for terms of
24 three (3) years, with their initial appointments made so as to provide for
25 staggering of terms on an annual basis. In addition, the county surveyor
26 serves on the board as an ex officio, nonvoting member.

27 (b) In a county having a consolidated city, the board of public works
28 of the consolidated city comprises the drainage board, subject to
29 IC 36-3-4-23.

30 (c) In a county having a consolidated city, the department of public
31 works of the consolidated city has all the powers, duties, and
32 responsibilities of the county surveyor under this chapter, subject to
33 IC 36-3-4-23.

34 **(d) In a county that is subject to IC 36-2-2.5:**

- 35 **(1) the drainage board consists of three (3) persons appointed**
36 **by the county council;**
37 **(2) appointees under this subsection must be resident**
38 **freeholders of the county who are knowledgeable in drainage**
39 **matters;**
40 **(3) the freeholders appointed to the drainage board serve for**
41 **terms of three (3) years, with the freeholders' initial**
42 **appointments made so as to provide for staggering of terms**



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1 **on an annual basis;**
2 **(4) the county surveyor serves on the drainage board as an ex**
3 **officio, nonvoting member; and**
4 **(5) the terms of persons serving on the drainage board at the**
5 **time the first single county commissioner is elected under**
6 **IC 36-2-2.5 expire on January 1 of the year following that**
7 **election, and the county council shall make the appointments**
8 **to the board as provided in this subsection.**
9 **SECTION 26. 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. 110, 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 9, delete line 42.

Delete pages 10 through 12.

Page 13, delete lines 1 through 21.

Page 29, line 17, after "hundred" insert "**fifty**".

Page 29, line 17, strike "(200,000)" and insert "**(250,000)**".

Page 29, line 17, strike "three" and insert "**two**".

Page 29, line 18, after "hundred" insert "**seventy**".

Page 29, line 18, strike "(300,000)." and insert "**(270,000).**".

Page 29, line 35, after "two hundred" insert "**fifty**".

Page 29, line 35, strike "(200,000)" and insert "**(250,000)**".

Page 29, line 35, strike "three" and insert "**two**".

Page 29, line 36, before "thousand" insert "**seventy**".

Page 29, line 36, strike "(300,000)." and insert "**(270,000).**".

Page 31, line 30, after "hundred" insert "**fifty**".

Page 31, line 30, strike "(200,000)" and insert "**(250,000)**".

Page 31, line 31, strike "three" and insert "**two**".

Page 31, line 31, after "hundred" insert "**seventy**".

Page 31, line 31, strike "(300,000);" and insert "**(270,000);**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 110 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 110 be amended to read as follows:

Page 20, line 24, delete "two percent (2%)" and insert "**five percent (5%)**".

Page 22, line 22, delete "two percent (2%)" and insert "**five percent (5%)**".

(Reference is to SB 110 as printed January 13, 2012.)

HOLDMAN

SENATE MOTION

Madam President: I move that Senate Bill 110 be amended to read as follows:

Page 2, delete lines 14 through 22.

Page 19, delete lines 41 through 42.

Page 20, delete lines 1 through 12.

Page 33, delete lines 10 through 23.

Renumber all SECTIONS consecutively.

(Reference is to SB 110 as printed January 13, 2012.)

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