



January 20, 2012

# SENATE BILL No. 174

DIGEST OF SB 174 (Updated January 18, 2012 4:51 pm - DI 87)

**Citations Affected:** IC 36-1.5; IC 36-4; IC 36-7.

**Synopsis:** Local government reorganization. Requires that the plan prepared by a reorganization committee under the government reorganization statutes must include a fiscal impact analysis. Specifies the required contents of the fiscal impact analysis. Provides that the fiscal impact analysis must specify any estimated effects on political subdivisions in the county that are not participating in the reorganization and on taxpayers located in those political subdivisions. Requires a reorganization committee to submit the fiscal impact analysis to the department of local government finance (DLGF) at least six months before the election in which the public question will be on the ballot. Requires the DLGF to do the following within a reasonable time, but not later than 30 days before the public question: (1) Review the fiscal impact analysis. (2) Make any comments concerning the fiscal impact analysis that the DLGF considers appropriate. (3) Provide comments to the legislative body of the reorganizing political subdivisions and post the comments on the DLGF's Internet web site. Requires the reorganizing political subdivisions to pay the expenses incurred by the DLGF in carrying out the review and preparing the comments. Requires that a brief description of the reorganized political subdivision that will succeed the reorganizing political subdivisions must be placed on the ballot of the public question. Provides that for a public question voted on by voters after June 30, 2012, the county election board shall submit the language to the DLGF for review. Requires the DLGF to review the language of the public question to:

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**Effective:** July 1, 2012.

## Lawson C

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

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(1) evaluate whether the description of the reorganized political subdivision is accurate and not biased; and (2) make nonbinding recommendations to the county election board regarding the ballot language. Requires the county election board to take final action to approve the ballot language. Provides that certification of a public question on a proposed local government reorganization must occur as required for other public questions under the election law. Provides that in the case of a proposed reorganization between a municipality and a township that is voted on by voters after December 31, 2012: (1) the voters residing within the municipality shall be included only in the tally of votes for the municipality and shall not be included in the tally of votes for the township; and (2) the voters who reside within the township but do not reside within the municipality shall be included only in the tally of votes for the township and shall not be included in the tally of votes for the municipality. Provides that if a political subdivision is located in whole or in part within one or more other political subdivisions that reorganize and the first political subdivision does not participate in or does not approve the reorganization: (1) the reorganization does not affect the rights, powers, and duties of the first political subdivision; and (2) the reorganized political subdivision may not exercise within the first political subdivision any right, power, or duty unless that right, power, or duty was exercised within the first political subdivision before the reorganization by at least one of the reorganizing political subdivisions. Provides that a plan of reorganization may establish within a reorganized political subdivision territories or districts: (1) in which specified services provided by the reorganized political subdivision will be provided at different levels, quantities, or amounts; and (2) in which the fees, charges, or taxes imposed by the reorganized political subdivision will vary depending on the level, quantity, or amount of the services. Specifies that a reorganized political subdivision must continue to carry out the duties imposed by Indiana law on the reorganizing political subdivisions that combined to form the reorganized political subdivision. Specifies that a reorganized political subdivision created from two or more townships and at least one municipality that have reorganized: (1) may exercise park and recreation powers and establish a park and recreation board if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers; and (2) may exercise planning and zoning power if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers. Provides that such a reorganized political subdivision shall, by resolution or in the plan of reorganization, determine the number of members to be appointed to the reorganized political subdivision's park and recreation board, advisory plan commission, and board of zoning appeals. Provides that a political subdivision may not take certain actions within a reorganizing political subdivision after the date a plan of reorganization is finally adopted by all reorganizing political subdivisions unless one of the following occurs: (1) All reorganizing political subdivisions agree to allow the action by adopting identical resolutions. (2) The plan is rejected by voters in a referendum. (3) The plan is approved by voters and the earlier of the following occurs: (A) The plan is implemented. (B) One year elapses from the date the plan has been approved. Requires a town legislative body to adopt a resolution not later than 30 days after a petition is filed for a referendum on changing the town into a city. Provides that the date of the referendum must not be later than the earlier of the date of the next general election or the date of the next municipal election, at which a question may be placed on the ballot. Requires the first election of city officers to be held on the earlier of the date of the next general election or a municipal election following the date of the referendum.

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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. 174

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 36-1.5-4-18, AS AMENDED BY P.L.113-2010,  
2 SECTION 110, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) A reorganization committee  
4 shall prepare a comprehensive plan of reorganization for the  
5 reorganizing political subdivisions. The plan of reorganization governs  
6 the actions, duties, and powers of the reorganized political subdivision  
7 that are not specified by law.  
8 (b) The plan of reorganization must include at least the following:  
9 (1) The name and a description of the reorganized political  
10 subdivision that will succeed the reorganizing political  
11 subdivisions.  
12 (2) A description of the boundaries of the reorganized political  
13 subdivision.  
14 (3) Subject to section 40 of this chapter, a description of the  
15 taxing areas in which taxes to retire obligations of the

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1 reorganizing political subdivisions will be imposed.

2 (4) A description of the membership of the legislative body, fiscal  
3 body, and executive of the reorganized political subdivision, a  
4 description of the election districts or appointment districts from  
5 which officers will be elected or appointed, and the manner in  
6 which the membership of each elected or appointed office will be  
7 elected or appointed.

8 (5) A description of the services to be offered by the reorganized  
9 political subdivision and the service areas in which the services  
10 will be offered.

11 (6) The disposition of the personnel, the agreements, the assets,  
12 and, subject to section 40 of this chapter, the liabilities of the  
13 reorganizing political subdivisions, including the terms and  
14 conditions upon which the transfer of property and personnel will  
15 be achieved.

16 (7) Any other matter that the:

17 (A) reorganization committee determines to be necessary or  
18 appropriate; or

19 (B) legislative bodies of the reorganizing political subdivisions  
20 require the reorganization committee;

21 to include in the plan of reorganization.

22 (8) In the case of a reorganization described in section 1(a)(9) of  
23 this chapter, if the legislative bodies of the reorganizing political  
24 subdivisions have specified that the vote on the public question  
25 regarding the reorganization shall be conducted on a countywide  
26 basis under section 30(b) of this chapter with a rejection  
27 threshold, the reorganization committee shall include in the  
28 reorganization plan a rejection threshold, specified as a  
29 percentage, that applies for purposes of section 32(b) of this  
30 chapter. The rejection threshold must be the same for each  
31 municipality that is a party to the proposed reorganization and to  
32 the county that is a party to the proposed reorganization.

33 (9) In the case of a reorganization described in section 1(a)(9) of  
34 this chapter, the reorganization committee shall determine and  
35 include in the reorganization plan the percentage of voters voting  
36 on the public question regarding the proposed reorganization who  
37 must vote, on a countywide basis, in favor of the proposed  
38 reorganization for the public question to be approved. This  
39 percentage is referred to in this chapter as the "countywide vote  
40 approval percentage". The countywide vote approval percentage  
41 must be greater than fifty percent (50%).

42 (10) The ~~statement~~ **fiscal impact analysis** required by subsection

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1 (e).

2 (c) In the case of a reorganization described in section 1(a)(9) of this  
 3 chapter, the reorganization committee may not change the decision of  
 4 the legislative bodies of the reorganizing political subdivisions  
 5 regarding whether the vote on the public question regarding the  
 6 reorganization shall be conducted on a countywide basis without a  
 7 rejection threshold or with a rejection threshold.

8 (d) Upon completion of the plan of reorganization, the  
 9 reorganization committee shall present the plan of reorganization to the  
 10 legislative body of each of the reorganizing political subdivisions for  
 11 adoption. The initial plan of reorganization must be submitted to the  
 12 legislative body of each of the reorganizing political subdivisions not  
 13 later than one (1) year after the clerk of the last political subdivision  
 14 that adopts a reorganization resolution under this chapter has certified  
 15 the resolution to all of the political subdivisions named in the  
 16 resolution. In the case of a plan of reorganization submitted to a  
 17 political subdivision by a reorganization committee after June 30, 2010,  
 18 the political subdivision shall post a copy of the plan of reorganization  
 19 on an Internet web site maintained or authorized by the political  
 20 subdivision not more than thirty (30) days after receiving the plan of  
 21 reorganization from the reorganization committee. **If the plan of**  
 22 **reorganization is amended, the political subdivision shall post the**  
 23 **amended plan on the Internet web site maintained or authorized by**  
 24 **the political subdivision within seven (7) days after the amended**  
 25 **plan is adopted.**

26 (e) A reorganization committee must include in the plan of  
 27 reorganization submitted to a political subdivision after June 30, 2010;  
 28 **2012, a statement of fiscal impact analysis of the proposed**  
 29 **reorganization. The fiscal impact analysis must include at least the**  
 30 **following:**

- 31 (1) whether a fiscal impact analysis concerning the proposed  
 32 reorganization has been prepared or has not been prepared by or  
 33 on behalf of the reorganization committee; and  
 34 (2) whether a fiscal impact analysis concerning the proposed  
 35 reorganization has been made available or has not been made  
 36 available to the public by or on behalf of the reorganization  
 37 committee.

38 (1) **The estimated effect of the proposed reorganization on**  
 39 **taxpayers in each of the political subdivisions to which the**  
 40 **proposed reorganization applies, including the expected tax**  
 41 **rates, tax levies, expenditure levels, service levels, and annual**  
 42 **debt service payments in those political subdivisions.**



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

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

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

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

12 (4) Any estimated effects on political subdivisions in the  
 13 county that are not participating in the reorganization and on  
 14 taxpayers located in those political subdivisions.

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

26 (1) Review the fiscal impact analysis.

27 (2) Make any comments concerning the fiscal impact analysis  
 28 that the department considers appropriate.

29 (3) Provide the department's comments under subdivision (2)  
 30 to the legislative body of the reorganizing political  
 31 subdivisions.

32 (4) Post the department's comments under subdivision (2) on  
 33 the department's Internet web site.

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

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

SECTION 2. IC 36-1.5-4-28, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 28. (a) A public question under this chapter shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

**(Insert a brief description of the structure of the proposed reorganized political subdivision that will succeed the reorganizing political subdivisions.)**

"Shall \_\_\_\_\_ (insert name of political subdivision) and \_\_\_\_\_ (insert name of political subdivision) reorganize as a single political subdivision?"

**(b) The public question must appear on the ballot in the form approved by the county election board. A brief description of the reorganized political subdivision that will succeed the reorganizing political subdivisions, and the public question described in subsection (a), shall be placed on the ballot in the form prescribed by IC 3-10-9-4. For a public question voted on by voters after June 30, 2012, the county election board shall submit the language to the department of local government finance for review.**

**(c) The department of local government finance shall review the language of the public question to evaluate whether the description of the reorganized political subdivision that will succeed the reorganizing political subdivisions is accurate and is not biased against either a vote in favor of the reorganization or a vote against the reorganization. The department of local government finance may:**

- (1) approve the ballot language as submitted; or**
- (2) modify the ballot language as necessary to ensure that the description of the reorganized political subdivision that will succeed the reorganizing political subdivisions is accurate and is not biased.**

**The department of local government finance shall certify its approval or recommendations to the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. If the department of local government finance recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, submit modified ballot language to the department for the department's approval or recommendation of any additional**

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1 **modifications. The public question may not be certified under**  
 2 **IC 3-10-9-3 unless the department of local government finance has**  
 3 **first certified the department's final approval of the ballot**  
 4 **language for the public question.**

5 SECTION 3. IC 36-1.5-4-32, AS ADDED BY P.L.186-2006,  
 6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2012]: Sec. 32. (a) This subsection does not apply to a  
 8 reorganization described in section 1(a)(9) of this chapter. A  
 9 reorganization as specified in the plan of reorganization is approved if  
 10 a majority of the voters in each reorganizing political subdivision  
 11 voting on the public question approve the public question on the  
 12 reorganization. **If a reorganizing political subdivision includes the**  
 13 **territory of another reorganizing political subdivision, the**  
 14 **following apply:**

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

23 **(2) This subdivision applies only to a reorganization voted on**  
 24 **by voters after December 31, 2012. In the case of a proposed**  
 25 **reorganization between a municipality and a township:**

26 **(A) the voters residing within the municipality:**

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

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

31 **(B) the voters who reside within the township but do not**  
 32 **reside within the municipality:**

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

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

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

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

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

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

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

21 SECTION 4. IC 36-1.5-4-38, AS ADDED BY P.L.186-2006,  
 22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2012]: Sec. 38. (a) A reorganized political subdivision has the  
 24 powers granted by statute to a political subdivision of the same type as  
 25 the reorganized political subdivision. However, if authorized by the  
 26 plan of reorganization approved by the voters in a public question  
 27 under this chapter, the reorganized political subdivision will exercise  
 28 a power or have the officers or number of offices that a statute would  
 29 have permitted any of the reorganizing political subdivisions to have.

30 (b) **This subsection applies to reorganizations approved by**  
 31 **voters after July 1, 2012. Notwithstanding subsection (a), if:**

32 (1) **a first political subdivision is located in whole or in part**  
 33 **within one (1) or more other political subdivisions that**  
 34 **reorganize under this article; and**

35 (2) **the first political subdivision does not participate in or**  
 36 **does not approve the reorganization;**

37 **the reorganization does not affect the rights, powers, and duties of**  
 38 **the first political subdivision, and the reorganized political**  
 39 **subdivision may not exercise within the first political subdivision**  
 40 **any right, power, or duty unless that right, power, or duty was**  
 41 **exercised within the first political subdivision before the**  
 42 **reorganization by at least one (1) of the reorganizing political**

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1 **subdivisions.**

2 SECTION 5. IC 36-1.5-4-39, AS ADDED BY P.L.186-2006,  
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2012]: Sec. 39. **(a)** If a law does not permit the reorganized  
5 political subdivision to exercise generally throughout the territory of  
6 the reorganized political subdivision a power that any of the  
7 reorganizing political subdivisions had before the reorganization, the  
8 reorganized political subdivision may exercise the power outside the  
9 original territory of the reorganizing political subdivision only by  
10 following the laws applicable to the expansion of the service area of the  
11 reorganizing political subdivision.

12 **(b) Subject to subsection (a), a reorganized political subdivision**  
13 **that results from a reorganization under this chapter must**  
14 **continue to carry out the duties imposed by Indiana law on the**  
15 **reorganizing political subdivisions that combined to form the**  
16 **reorganized political subdivision.**

17 SECTION 6. IC 36-1.5-4-39.5 IS ADDED TO THE INDIANA  
18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2012]: Sec. 39.5. **A plan of reorganization**  
20 **may establish within a reorganized political subdivision territories**  
21 **or districts:**

22 **(1) in which specified services provided by the reorganized**  
23 **political subdivision will be provided at different levels,**  
24 **quantities, or amounts; and**

25 **(2) in which the fees, charges, or taxes imposed by the**  
26 **reorganized political subdivision will vary depending on the**  
27 **level, quantity, or amount of the services provided.**

28 SECTION 7. IC 36-1.5-4-44 IS ADDED TO THE INDIANA CODE  
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
30 1, 2012]: Sec. 44. **(a) A reorganized political subdivision consisting**  
31 **of:**

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

33 **(2) at least one (1) municipality;**

34 **that has reorganized under this article may exercise park and**  
35 **recreation powers under IC 36-10 if the reorganized political**  
36 **subdivision's plan of reorganization authorizes the reorganized**  
37 **political subdivision to exercise those powers.**

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

42 **(c) A park and recreation board established by a reorganized**

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1 political subdivision under this section:

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

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

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

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

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

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

15 (4) the terms of those members.

16 SECTION 8. IC 36-1.5-4-45 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2012]: Sec. 45. (a) Except as provided in subsections (c) through  
19 (e), a political subdivision may not take an action described in  
20 subsection (b) within a reorganizing political subdivision after the  
21 date a plan of reorganization is finally adopted by all reorganizing  
22 political subdivisions.

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

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

30 (2) Establish a fire protection territory or fire protection  
31 district.

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

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

35 (c) This chapter does not prohibit:

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

39 (2) any of the reorganizing political subdivisions from taking  
40 an action under subsection (b) for the purpose of  
41 implementing the plan of reorganization.

42 (d) A political subdivision may take an action described in

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1 subsection (b) after the date the reorganization is rejected by the  
2 voters under section 33 of this chapter.

3 (e) If a reorganization is approved by the voters under section  
4 34 of this chapter, a political subdivision may not take an action  
5 under subsection (b) until the earlier of the following:

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

9 SECTION 9. IC 36-4-1.5-2, AS ADDED BY P.L.111-2005,  
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2012]: Sec. 2. A town may be changed into a city through the  
12 following:

13 (1) The town legislative body must adopt a resolution submitting  
14 to the town's voters the question of whether the town should be  
15 changed into a city. The town legislative body shall adopt a  
16 resolution described in this subdivision if at least the number of  
17 registered voters of the town equal to ten percent (10%) of the  
18 total votes cast in the town at the last election for secretary of  
19 state sign a petition requesting the town legislative body to adopt  
20 such a resolution. In determining the number of signatures  
21 required under this subdivision, any fraction that exceeds a whole  
22 number shall be disregarded.

23 (2) **The town legislative body must adopt the resolution under  
24 subdivision (1) not later than thirty (30) days after the date a  
25 petition having a sufficient number of signatures is filed.** A  
26 resolution adopted under subdivision (1) must fix the date for an  
27 election on the question of whether the town should be changed  
28 into a city as follows:

29 (A) **If the election is to be on the same date as a general  
30 election or municipal election:**

- 31 (i) **the resolution must state that fact and be certified in  
32 accordance with IC 3-10-9-3; and**
- 33 (ii) **the election must be held on the date of the next  
34 general election or municipal election, whichever is  
35 earlier, at which the question can be placed on the ballot  
36 under IC 3-10-9-3.**

37 (B) **If the election is to be a special election, the date must be:**  
38 ~~(A)~~ (i) **not less than thirty (30) and ~~(B)~~ not more than sixty  
39 (60) days after the notice of the election; and**  
40 (ii) **not later than the next general election or municipal  
41 election, whichever is earlier, at which the question can  
42 be placed on the ballot under IC 3-10-9-3.**

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If the election is to be on the same date as a general election the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of \_\_\_\_\_ change into a city?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

SECTION 10. IC 36-4-1.5-3, AS ADDED BY P.L.111-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A town legislative body may satisfy the requirements of this section in an ordinance adopted either before or after the town's voters vote on the question described in section 2 of this chapter.

(b) If a resolution is adopted under section 2 of this chapter, the town legislative body shall adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance adopted under this section must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) The date of the first election of the city officers. The first election may be held only on the date of a **the next** general election or a municipal election, **whichever is earlier, following the date fixed for an election under section 2 of this chapter on the question of whether the town should be changed into a city.** Candidates for election to the city offices shall be

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1 nominated:

2 (A) at the corresponding primary election during a general

3 election year or a municipal election year; or

4 (B) as otherwise provided in IC 3.

5 (4) Subject to section 4 of this chapter, the term of office of each

6 city officer elected at the first election of city officers.

7 (5) Any other details the town legislative body considers useful in

8 providing for the transition of the town into a city.

9 (c) An ordinance adopted under this section is effective only if the

10 voters of the town approve the conversion of the town into a city under

11 section 2(6) of this chapter.

12 (d) The provisions of an ordinance adopted under this section are

13 subject to all other laws governing the structure of city government.

14 (e) Subject to this chapter, the town legislative body or the city

15 legislative body (after the town is changed into a city) may amend an

16 ordinance adopted under this section.

17 SECTION 11. IC 36-4-3-1.4 IS ADDED TO THE INDIANA CODE

18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

19 1, 2012]: **Sec. 1.4. If a township is a participant in a proposed**

20 **reorganization under IC 36-1.5-4-1(a)(2), IC 36-1.5-4-1(a)(7), or**

21 **IC 36-1.5-4-1(a)(8), a municipality may not adopt an annexation**

22 **ordinance annexing territory within the township within the period**

23 **set forth in IC 36-1.5-4-45.**

24 SECTION 12. IC 36-7-2-1 IS AMENDED TO READ AS

25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) **Except as**

26 **provided in subsection (b),** this chapter applies to all units except

27 townships.

28 (b) **A unit consisting of:**

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

30 (2) **at least one (1) municipality;**

31 **that has reorganized under IC 36-1.5 may exercise planning and**

32 **zoning power under IC 36-7-4 if the unit's plan of reorganization**

33 **under IC 36-1.5 authorizes the unit to exercise planning and zoning**

34 **powers.**

35 SECTION 13. IC 36-7-4-107 IS ADDED TO THE INDIANA

36 CODE AS A NEW SECTION TO READ AS FOLLOWS

37 [EFFECTIVE JULY 1, 2012]: **Sec. 107. If a provision of this chapter**

38 **requires a power to be exercised by adoption of an ordinance, a**

39 **unit described in IC 36-7-2-1(b) shall exercise the power by**

40 **adoption of a resolution.**

41 SECTION 14. IC 36-7-4-202.5 IS ADDED TO THE INDIANA

42 CODE AS A NEW SECTION TO READ AS FOLLOWS

COPY



1 [EFFECTIVE JULY 1, 2012]: Sec. 202.5. (a) **ADVISORY.**  
 2 **Notwithstanding any other law, the legislative body of a unit**  
 3 **described in IC 36-7-2-1(b) may establish by resolution an advisory**  
 4 **plan commission.**

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

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

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

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

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

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

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

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

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

42 (2) **the person or entity that shall appoint or remove those**

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- 1 members;
- 2 (3) any required qualifications for those members;
- 3 (4) the terms of those members; and
- 4 (5) whether any members or advisory members shall be
- 5 appointed by the county in which the unit is located or by a
- 6 municipality located within the unit.

7 SECTION 15. IC 36-7-4-901.5 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2012]: **Sec. 901.5. (a) If an advisory plan**  
 10 **commission is established under section 202.5 of this chapter by a**  
 11 **unit described in IC 36-7-2-1(b) and the unit adopts a**  
 12 **comprehensive plan under this chapter, the legislative body of the**  
 13 **unit shall establish a board of zoning appeals.**

- 14 (b) A board of zoning appeals established under this section:
- 15 (1) shall exercise the board's powers and duties under this
- 16 chapter within the unit in the same manner that a municipal
- 17 board of zoning appeals established under this chapter
- 18 exercises powers and duties under this chapter for a
- 19 municipality; and
- 20 (2) may not exercise the board's powers and duties under this
- 21 chapter within a municipality that has established a plan
- 22 commission under this chapter (other than a municipality that
- 23 participated in the reorganization of the unit under
- 24 IC 36-1.5).

25 (c) Notwithstanding any other law, if the legislative body of a  
 26 unit described in IC 36-7-2-1(b) establishes a board of zoning  
 27 appeals under this section, the legislative body of the unit shall, by  
 28 resolution or in the unit's plan of reorganization under IC 36-1.5,  
 29 determine:

- 30 (1) the number of members to be appointed to the unit's board
- 31 of zoning appeals;
- 32 (2) the person or entity that shall appoint or remove those
- 33 members;
- 34 (3) any required qualifications for those members; and
- 35 (4) the terms of those members.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 174, 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 5, line 19, delete "If the county election board approves the language".

Page 5, line 20, delete "of a public question under this subsection" and insert "**For a public question voted on by voters**".

Page 5, line 30, delete "recommend that" and insert "**approve**".

Page 5, line 30, delete "be used".

Page 5, line 32, delete "recommend modifications to" and insert "**modify**".

Page 5, delete lines 36 through 39, begin a new line blocked left and insert:

**"The department of local government finance shall certify its approval or recommendations to the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. If the department of local government finance recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, submit modified ballot language to the department for the department's approval or recommendation of any additional modifications. The public question may not be certified under IC 3-10-9-3 unless the department of local government finance has first certified the department's final approval of the ballot language for the public question."**

Page 5, delete lines 40 through 42.

Page 6, delete lines 1 through 4.

Page 6, line 23, after "(2)" insert "**This subdivision applies only to a reorganization voted on by voters after December 31, 2012.**".

and when so amended that said bill do pass.

(Reference is to SB 174 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 8, Nays 0.

SB 174—LS 6610/DI 87+



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