



Reprinted
April 9, 2013

ENGROSSED SENATE BILL No. 459

DIGEST OF SB 459 (Updated April 8, 2013 4:57 pm - DI 73)

Citations Affected: IC 6-1.1; IC 36-1; IC 36-1.5; IC 36-6; IC 36-7; IC 36-8.

Synopsis: Local government reorganization. Specifies that after a local government reorganization, a reorganized political subdivision may (except as provided in the plan of reorganization) do any of the following: (1) Establish any fund that one or more of the reorganizing political subdivisions were authorized to establish before the
(Continued next page)

Effective: Upon passage; July 1, 2013.

Miller Pete

(HOUSE SPONSOR — STEUERWALD)

January 10, 2013, read first time and referred to Committee on Local Government.
January 31, 2013, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.
February 12, 2013, reported favorably — Do Pass.
February 21, 2013, read second time, amended, ordered engrossed.
February 22, 2013, engrossed.
February 25, 2013, read third time, passed. Yeas 37, nays 13.
February 25, 2013, pursuant to Senate Rule 35(c), technical correction.
February 26, 2013, engrossed.

HOUSE ACTION

March 4, 2013, read first time and referred to Committee on Government and Regulatory Reform.
April 2, 2013, amended, reported — Do Pass.
April 8, 2013, read second time, amended, ordered engrossed.

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reorganization. (2) Impose any tax levy or adopt any tax that one or more of the reorganizing political subdivisions were authorized to impose or adopt before the reorganization. Provides that in the case of: (1) a local government reorganization; (2) a township merger; (3) a transfer or sharing of powers, duties, functions, or resources under an interlocal cooperation agreement; or (4) a combination or reorganization of a political subdivision's departments, agencies, or functions; the reorganizing or merging local governments shall specify in the reorganization plan or in the cooperative agreement or other agreement the amount (if any) of the decrease that the department of local government finance shall make to the maximum property tax levies, maximum property tax rates, and budgets of the political subdivision to eliminate double taxation or eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services. Provides the following regarding a township that merges with another township: (1) The new township may use any funds that are not needed to deliver services to pay the indebtedness of the new township government. (2) After satisfaction of the indebtedness, the new township may do the following with any remaining excess funds: (A) Transfer the funds to the county or a municipality having jurisdiction within the new township to make improvements to infrastructure located within the new township. (B) Transfer the funds to a transportation corporation that offers service within the area of the new township for use within the new township. (C) Use the funds for improvement of fire services within the new township. (D) Transfer the funds to a political subdivision that has jurisdiction within the new township for improvement of any fire department that provides service within the area of the new township. Provides that in the case of a government reorganization that involves one or more municipalities and one or more townships, all of which are participating units in a fire protection territory on the date the reorganization is approved by voters, the fiscal body of the reorganized political subdivision that results from a reorganization may establish an equipment replacement fund under the fire protection territory law and impose a property tax for the fund and take any other action under the fire protection territory law that may be taken by a participating unit in a fire protection territory. Specifies that the requirements and procedures in the statute governing the establishment of a cumulative fund and the imposing or increasing of a property tax rate for a cumulative fund also apply to an equipment replacement fund established for a fire protection territory. Requires the department of local government finance (DLGF) to assist township mergers and prohibits the DLGF from preventing or delaying township mergers. Removes the requirement that a county legislative body adopt an ordinance ordering a township merger after the legislative bodies of the merging townships adopt resolutions approving the merger. Removes provisions that prohibit a merger from being approved less than one year before the merger becomes effective. Allows townships in a county having a consolidated city to merge. Provides the following regarding a merger of townships in a county having a consolidated city: (1) A merger does not affect the small claims courts or judges of the small claims courts or reduce the terms of constables. Provides however that at the end of the constables' term the constable offices are consolidated into one elected office for the merged township. (2) Prohibits, as a result of a merger, the expansion of a township fire department or fire protection territory into the fire special service district of the consolidated city or a township that has consolidated its fire department or fire protection territory. Provides that a township merger may reduce the term of office of a township trustee.

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April 9, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 459

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

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

- 1 SECTION 1. IC 6-1.1-18.5-10.4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) The ad
3 valorem property tax levy limits imposed by section 3 of this chapter
4 do not apply to ad valorem property taxes imposed by a township or a
5 fire protection district under IC 36-8-14.
6 (b) For purposes of computing the ad valorem property tax levy
7 limit imposed on a township or a fire protection district under section
8 3 of this chapter, the township's or the fire protection district's ad
9 valorem property tax levy for a particular calendar year does not
10 include that part of the levy imposed under IC 36-8-14.
11 (c) **In the case of a reorganization under IC 36-1.5 that includes**
12 **a township and another political subdivision:**
13 (1) **the ad valorem property tax levy limits imposed by section**
14 **3 of this chapter do not apply to any of the ad valorem**
15 **property taxes imposed by the reorganized political**
16 **subdivision under IC 36-8-14; and**
17 (2) **for purposes of computing the ad valorem property tax**

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1 **levy limit imposed on the reorganized political subdivision**
 2 **under section 3 of this chapter, the reorganized political**
 3 **subdivision's ad valorem property tax levy for a particular**
 4 **calendar year does not include any part of the levy imposed**
 5 **under IC 36-8-14;**

6 **notwithstanding section 9.8 of this chapter.**

7 SECTION 2. IC 36-1-7-16, AS ADDED BY P.L.58-2011,
 8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2013]: Sec. 16. (a) This section applies to a political
 10 subdivision if:

11 (1) the political subdivision enters into an agreement with one (1)
 12 or more other political subdivisions under this chapter to transfer,
 13 combine, or share powers, duties, functions, or resources; **and**
 14 (2) the political subdivision realizes through the transfer,
 15 combination, or sharing of powers, duties, functions, or resources

16 a:

17 (A) savings; or

18 (B) reduction in the reasonably foreseeable expenses that
 19 would otherwise have been incurred by the political
 20 subdivision if the transfer, combination, or sharing of powers,
 21 duties, functions, or resources had not taken place. ~~and~~

22 ~~(3) the department of local government finance will otherwise~~
 23 ~~decrease the maximum permissible property tax levies; maximum~~
 24 ~~permissible property tax rates; or budgets of the political~~
 25 ~~subdivision to:~~

26 ~~(A) eliminate double taxation by different political~~
 27 ~~subdivisions for services; or~~

28 ~~(B) eliminate any excess by which the amount of property~~
 29 ~~taxes imposed by the political subdivision exceeds the amount~~
 30 ~~necessary to pay for services.~~

31 (b) **The political subdivision shall specify in the agreement**
 32 **described in subsection (a) the amount (if any) of the decrease that**
 33 **the department of local government finance shall establish criteria for**
 34 **making an adjustment make to the maximum permissible property tax**
 35 **levies, maximum permissible property tax rates, and budgets under**
 36 **IC 6-1.1-17 and IC 6-1.1-18.5 of a the political subdivision described**
 37 **in subsection (a): to:**

38 (1) **eliminate double taxation by different political**
 39 **subdivisions for services; or**

40 (2) **eliminate any excess by which the amount of property**
 41 **taxes imposed by the political subdivision exceeds the amount**
 42 **necessary to pay for services.**



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1 (c) The adjustment under subsection (b) must permit the political
2 subdivision to continue to:

3 (1) include in the political subdivision's budget part of the
4 budgeted amounts that would otherwise be reduced by the
5 department of local government finance on account of the realized
6 savings or reduction in expenses; and

7 (2) impose part of a property tax levy that would otherwise be
8 reduced by the department of local government finance on
9 account of the realized savings or reduction in expenses.

10 (d) The additional amount that a political subdivision may continue
11 to levy or include in the political subdivision's budget because of the
12 adjustment under subsection (b) may not exceed the result of:

13 (1) the savings or reduction in expenses realized in the first full
14 year of operation after the transfer, combination, or sharing of
15 powers, duties, functions, or resources is implemented, as
16 determined by the department of local government finance;
17 multiplied by

18 (2) a percentage determined as follows:

19 (A) Fifty percent (50%) in the first year of the adjustment.

20 (B) Fifty percent (50%) in the second year of the adjustment.

21 (C) Thirty percent (30%) in the third year of the adjustment.

22 (D) Ten percent (10%) in the fourth year of the adjustment and
23 thereafter.

24 (c) The fiscal body of the political subdivision shall determine and
25 certify to the department of local government finance the amount of the
26 adjustment that the political subdivision wishes to accept under this
27 section. **(if any) to be made under subsection (b).** The amount of any
28 adjustment accepted by a political subdivision **the adjustment (if any)**
29 **to be made** under this section **subsection (b)** must comply with the
30 agreement under this chapter under which the political subdivision
31 transfers, combines, or shares powers, duties, functions, or resources.

32 SECTION 3. IC 36-1-8-17, AS ADDED BY P.L.58-2011,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2013]: Sec. 17. (a) This section applies to a political
35 subdivision if:

36 (1) the political subdivision combines or reorganizes a
37 department, agency, or function of the political subdivision; **and**

38 (2) the political subdivision realizes through the combination or
39 reorganization a:

40 (A) savings; or

41 (B) reduction in the reasonably foreseeable expenses that
42 would otherwise have been incurred by the political

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- 1 subdivision if the combination or reorganization had not taken
 2 place. and
 3 (3) the department of local government finance will otherwise
 4 decrease the maximum permissible property tax levies; maximum
 5 permissible property tax rates; or budgets of the political
 6 subdivision to:
- 7 (A) eliminate double taxation; or
 - 8 (B) eliminate any excess by which the amount of property
 9 taxes imposed by the political subdivision exceeds the amount
 10 necessary to pay for services.
- 11 (b) The **fiscal body of a political subdivision shall specify by**
 12 **resolution the amount (if any) of the decrease that the** department
 13 of local government finance shall establish criteria for making an
 14 adjustment **make** to the maximum permissible property tax levies,
 15 maximum permissible property tax rates, and budgets under
 16 IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in
 17 subsection (a) to:
- 18 (1) **eliminate double taxation by different political**
 19 **subdivisions for services; or**
 - 20 (2) **eliminate any excess by which the amount of property**
 21 **taxes imposed by the political subdivision exceeds the amount**
 22 **necessary to pay for services.**
- 23 (c) The adjustment under subsection (b) must permit the political
 24 subdivision to continue to:
- 25 (1) include in the political subdivision's budget part of the
 26 budgeted amounts that would otherwise be reduced by the
 27 department of local government finance on account of the realized
 28 savings or reduction in expenses; and
 - 29 (2) impose part of a property tax levy that would otherwise be
 30 reduced by the department of local government finance on
 31 account of the realized savings or reduction in expenses.
- 32 (d) The additional amount that a political subdivision may continue
 33 to levy or include in the political subdivision's budget because of the
 34 adjustment under subsection (b) may not exceed the result of:
- 35 (1) the savings or reduction in expenses realized in the first full
 36 year of operation after the combination or reorganization is
 37 implemented; as determined by the department of local
 38 government finance; multiplied by
 - 39 (2) a percentage determined as follows:
- 40 (A) Fifty percent (50%) in the first year of the adjustment.
 - 41 (B) Fifty percent (50%) in the second year of the adjustment.
 - 42 (C) Thirty percent (30%) in the third year of the adjustment.

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1 ~~(D)~~ Ten percent (10%) in the fourth year of the adjustment and
2 thereafter.

3 (c) The fiscal body of the political subdivision shall determine and
4 certify to the department of local government finance the amount of the
5 adjustment ~~that the political subdivision wishes to accept under this~~
6 ~~section.~~ **(if any) to be made under subsection (b).**

7 SECTION 4. IC 36-1.5-1-4, AS ADDED BY P.L.186-2006,
8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]: Sec. 4. A political subdivision:

10 (1) may exercise the powers granted under this article to
11 reorganize or enter into cooperative agreements without
12 complying with the provisions of any other law, statute, or rule;
13 **and**

14 **(2) may, after the reorganization, exercise any power**
15 **described in IC 36-1.5-4-38.**

16 SECTION 5. IC 36-1.5-1-6, AS ADDED BY P.L.186-2006,
17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2013]: Sec. 6. Except as otherwise specifically provided by
19 law, to the extent the provisions of this article are inconsistent with the
20 provisions of any other general, special, or local law, the provisions of
21 this article are controlling, and compliance with this article shall be
22 treated as compliance with the conflicting law. **However, after the**
23 **reorganization, the reorganized political subdivision may exercise**
24 **any power described in IC 36-1.5-4-38.**

25 SECTION 6. IC 36-1.5-3-4, AS ADDED BY P.L.186-2006,
26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2013]: Sec. 4. **(a)** Subject to this chapter, the department of
28 local government finance shall adjust the maximum permissible
29 property tax levies, maximum permissible property tax rates, and
30 budgets of political subdivisions that enter into a reorganization under
31 this article as ~~the department of local government finance determines~~
32 **necessary to provided in section 5 of this chapter.**

33 **(b) Upon the termination of a reorganization under this chapter,**
34 **the department of local government finance shall adjust the**
35 **maximum permissible property tax levies, maximum permissible**
36 **property tax rates, and budgets of political subdivisions**
37 **terminating the reorganization to do the following:**

38 (1) Eliminate double taxation by different political subdivisions
39 for services or goods provided under this article:

40 (2) Eliminate any excess by which the amount of property taxes
41 imposed by a political subdivision exceeds the amount necessary
42 to pay for services or goods provided under this article:

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1 (3) (1) Restore taxing powers of a political subdivision after the
2 termination of a reorganization under this article that are
3 necessary to fund governmental services to the individuals and
4 entities served by the political subdivision.

5 (4) (2) Restore taxing powers of a political subdivision after the
6 withdrawal of a party from a reorganization under this article that
7 are necessary to fund governmental services to the individuals
8 and entities served by the political subdivision.

9 SECTION 7. IC 36-1.5-3-5, AS AMENDED BY P.L.58-2011,
10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]: Sec. 5. (a) ~~The department of local government finance~~
12 ~~shall establish criteria for making an adjustment to the maximum~~
13 ~~permissible property tax levies, maximum permissible property tax~~
14 ~~rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if a political~~
15 ~~subdivision (or a successor political subdivision) realizes through a~~
16 ~~reorganization under this article, including a reorganization through a~~
17 ~~cooperative agreement under IC 36-1.5-5, a: (1) savings; or (2)~~
18 ~~reduction in the reasonably foreseeable expenses that would otherwise~~
19 ~~have been incurred by the political subdivision if the reorganization~~
20 ~~had not taken place. The plan of reorganization must specify the~~
21 ~~amount (if any) of the decrease that the department of local~~
22 ~~government finance shall make to the maximum permissible~~
23 ~~property tax levies, maximum permissible property tax rates, and~~
24 ~~budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of the reorganized~~
25 ~~political subdivision to:~~

- 26 (1) **eliminate double taxation for services or goods provided**
- 27 **by the reorganized political subdivision; or**
- 28 (2) **eliminate any excess by which the amount of property**
- 29 **taxes imposed by the reorganized political subdivision exceeds**
- 30 **the amount necessary to pay for services or goods provided**
- 31 **under this article.**

32 (b) Except as provided in subsection (d), the adjustment under this
33 section must permit the political subdivision to continue to:

- 34 (1) include in the political subdivision's budget part of the
- 35 budgeted amounts that would otherwise be reduced by the
- 36 department of local government finance under section 4 of this
- 37 chapter on account of the realized savings or reduction in
- 38 expenses that occurs because of the reorganization; and
- 39 (2) impose part of the property tax levy that would otherwise be
- 40 reduced by the department of local government finance under
- 41 section 4 of this chapter on account of the realized savings or
- 42 reduction in expenses that occurs because of the reorganization.

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1 (c) The additional amount that a political subdivision may continue
 2 to levy or include in the political subdivision's budget because of the
 3 adjustment under this section may not exceed the result of:

4 (1) the savings or reduction realized in the first full year of
 5 operation after the reorganization is implemented; as determined
 6 by the department of local government finance; multiplied by

7 (2) a percentage determined as follows:

8 (A) Fifty percent (50%) in the first year of the adjustment.

9 (B) Fifty percent (50%) in the second year of the adjustment.

10 (C) Thirty percent (30%) in the third year of the adjustment.

11 (D) Ten percent (10%) in the fourth year of the adjustment and
 12 thereafter.

13 (b) The fiscal body of the **reorganized** political subdivision shall
 14 determine and certify to the department of local government finance
 15 the amount of the adjustment that the political subdivision wishes to
 16 accept (if any) under this section: **subsection (a).**

17 (c) The amount of ~~any~~ **the** adjustment accepted by a political
 18 subdivision (if any) under this section **subsection (a)** must comply
 19 with the reorganization agreement under which the political
 20 subdivision is reorganized under this article.

21 SECTION 8. IC 36-1.5-4-34.5 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2013]: **Sec. 34.5. (a) This section applies to a**
 24 **reorganization under this chapter that:**

25 (1) occurs after June 30, 2006; and

26 (2) involves one (1) or more municipalities and one (1) or
 27 more townships, all of which are participating units in a fire
 28 protection territory on the date the reorganization is
 29 approved by voters.

30 (b) The fiscal body of a reorganized political subdivision that
 31 results from a reorganization described in subsection (a) may:

32 (1) establish an equipment replacement fund under
 33 IC 36-8-19-8.5 and impose a property tax for the fund as
 34 provided in IC 36-8-19-8.5; and

35 (2) take any other action under IC 36-8-19-8.5 that may be
 36 taken under that section by a participating unit in a fire
 37 protection territory.

38 (c) If a reorganized political subdivision establishes an
 39 equipment replacement fund under IC 36-8-19-8.5 as authorized
 40 by this section, the department of local government finance may
 41 adjust the maximum permissible ad valorem property tax levy that
 42 would otherwise apply to the reorganized political subdivision in

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1 the same manner in which the department may adjust the
 2 maximum permissible ad valorem property tax levy of a civil
 3 taxing unit under IC 6-1.1-18.5-10.5 to meet the civil taxing unit's
 4 obligations to a fire protection territory established under
 5 IC 36-8-19.

6 SECTION 9. IC 36-1.5-4-38, AS ADDED BY P.L.186-2006,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2013]: Sec. 38. (a) A reorganized political subdivision has the
 9 powers granted by statute to a political subdivision of the same type as
 10 the reorganized political subdivision, **including a power described in**
 11 **subsection (b)**. However, if authorized by the plan of reorganization
 12 approved by the voters in a public question under this chapter, the
 13 reorganized political subdivision will exercise a power or have the
 14 officers or number of offices that a statute would have permitted any of
 15 the reorganizing political subdivisions to have.

16 (b) **Except as provided in the plan of reorganization, a**
 17 **reorganized political subdivision may also do any of the following:**

18 (1) **Establish any fund that one (1) or more of the reorganizing**
 19 **political subdivisions (either acting on its own or jointly with**
 20 **another political subdivision) were authorized to establish**
 21 **before the reorganization.**

22 (2) **Impose any tax levy or adopt any tax that one (1) or more**
 23 **of the reorganizing political subdivisions were authorized to**
 24 **impose or adopt before the reorganization.**

25 SECTION 10. IC 36-1.5-4-40.5 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: Sec. 40.5. **The following apply in**
 28 **the case of a reorganization under this article that includes a**
 29 **township and another political subdivision:**

30 (1) **If the township borrowed money from a township fund**
 31 **under IC 36-6-6-14(c) to pay the operating expenses of the**
 32 **township fire department or a volunteer fire department**
 33 **before the reorganization:**

34 (A) **the reorganized political subdivision is not required to**
 35 **repay the entire loan during the following year; and**

36 (B) **the reorganized political subdivision may repay the**
 37 **loan in installments during the following five (5) years.**

38 (2) **Except as provided in subdivision (3):**

39 (A) **the reorganized political subdivision continues to be**
 40 **responsible after the reorganization for providing**
 41 **township services in all areas of the township, including**
 42 **within the territory of a municipality in the township that**

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does not participate in the reorganization; and
(B) the reorganized political subdivision retains the powers of a township after the reorganization in order to provide township services as required by clause (A).
(3) Powers and duties of the reorganized political subdivision may be transferred as authorized in an interlocal cooperation agreement approved under IC 36-1-7 or as authorized in a cooperative agreement approved under IC 36-1.5-5.
(4) If all or part of a municipality in the township is not participating in the reorganization, not less than ten (10) township taxpayers who reside within territory that is not participating in the reorganization may file a petition with the county auditor protesting the reorganized political subdivision's township assistance levy. The petition must be filed not more than thirty (30) days after the reorganized political subdivision finally adopts the reorganized political subdivision's township assistance levy. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the reorganized political subdivision's township assistance levy is excessive or unnecessary. The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) days and not more than thirty (30) days after the receipt of the certified documents. The hearing shall be held in the county where the petition arose. Notice of the hearing shall be given by the department of local government finance to the reorganized political subdivision and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. After the hearing, the department of local government finance may reduce the reorganized political subdivision's township assistance levy to the extent that levy is excessive or unnecessary. A taxpayer who signed a petition under this subdivision or a reorganized political subdivision against which a petition under this subdivision is filed may petition for judicial review of the final determination of the department of local government finance

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under this subdivision. The petition must be filed in the tax court not more than forty-five (45) days after the date of the department of local government finance's final determination.

(5) Section 40 of this chapter applies to the debt service levy of the reorganized political subdivision and to the department of local government finance's determination of the new maximum permissible ad valorem property tax levy for the reorganized political subdivision.

(6) The reorganized political subdivision may not borrow money under IC 36-6-6-14(b) or IC 36-6-6-14(c).

(7) The new maximum permissible ad valorem property tax levy for the reorganized political subdivision's firefighting fund under IC 36-8-13-4 is equal to:

(A) the result of:

(i) the maximum permissible ad valorem property tax levy for the township's firefighting fund under IC 36-8-13-4 in the year preceding the year in which the reorganization is effective; multiplied by

(ii) the assessed value growth quotient applicable for property taxes first due and payable in the year in which the reorganization is effective; plus

(B) any amounts borrowed by the township under IC 36-6-6-14(b) or IC 36-6-6-14(c) in the year preceding the year in which the reorganization is effective.

SECTION 11. IC 36-6-1.5-1, AS ADDED BY P.L.240-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. This chapter ~~does not apply to a township in a county containing a consolidated city:~~ **applies to all townships.**

SECTION 12. IC 36-6-1.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.5. (a) **All of the following apply to a township that merges with another township under this chapter:**

(1) Notwithstanding any other law, the new township government may use any funds in excess of what the new township government determines is necessary to deliver effective service to pay the indebtedness of the new township government, including bonds and other indebtedness transferred to the new township government under section 8 of this chapter.

(2) Notwithstanding any other law, after the indebtedness described in subdivision (1) is satisfied, the new township

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government may do the following with any remaining excess funds:

(A) Transfer the funds to:

(i) the county in which the new township government is located; or

(ii) a municipality that has jurisdiction; to make improvements to infrastructure located within the area of the new township government.

(B) Transfer the funds to a transportation corporation that offers service within the area of the new township government to pay for, or make improvements to, services within the area of the new township government.

(C) Use the funds for improvement of fire protection services within the area of the new township government.

(D) Transfer the funds to a political subdivision that has jurisdiction within the new township government for improvement of any fire department that provides service within the area of the new township government.

(b) Notwithstanding any other law, the department of local government finance shall take any and all appropriate action to assist townships in merging under this chapter and may not in any manner delay a merger of townships or prevent a merger of townships.

(c) This section shall be liberally construed to effect the purposes of this section.

(d) Notwithstanding any other law, to the extent the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter are controlling, and compliance with this chapter shall be treated as compliance with the conflicting law.

SECTION 13. IC 36-6-1.5-5, AS ADDED BY P.L.240-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter, must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days

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1 after the date the resolution is introduced. The hearing shall be
2 conducted in accordance with IC 5-14-1.5 and notice of the hearing
3 shall be published in accordance with IC 5-3-1.

4 (c) The township legislative bodies may adopt the identical
5 resolutions approving the township government merger under this
6 chapter not later than ninety (90) days after the legislative body has
7 held the public hearing under subsection (b). ~~The townships shall~~
8 ~~submit the resolutions to the county legislative body of the county~~
9 ~~within which the townships are located.~~

10 (d) ~~The county legislative body of the county where the township~~
11 ~~governments are located must: (1) adopt an ordinance ordering the~~
12 ~~merger; and (2) trustees of the participating townships shall jointly~~
13 ~~file a copy of the ordinance identical resolutions with:~~

- 14 (1) ~~the department of local government finance;~~
- 15 ~~(A) (2) the circuit court clerk; and~~
- 16 ~~(B) (3) the office of the secretary of state.~~

17 (e) ~~The county A township~~ legislative body may not adopt ~~an~~
18 ~~ordinance a resolution~~ ordering a merger after January 1 of a year in
19 which:

- 20 (1) a general election is held; and
- 21 (2) a township trustee is elected.

22 ~~(f) The county legislative body may not adopt an ordinance merging~~
23 ~~township governments less than one (1) year before the merger~~
24 ~~becomes effective.~~

25 ~~(g) (f) A merger under this chapter may not reduce the term of a~~
26 ~~township trustee of a former township government.~~

27 SECTION 14. IC 36-6-1.5-6, AS ADDED BY P.L.240-2005,
28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2013]: Sec. 6. The merger becomes effective ~~when the~~
30 ~~officers of the new township government are elected and qualified: on~~
31 **January 1 of the year following the adoption of the resolution**
32 **approving the merger of the townships.** An officer elected to
33 represent the merged township government shall be considered to be
34 a resident of the territory comprising the new township government
35 unless the township merger is dissolved under IC 36-6-1.6.

36 SECTION 15. IC 36-6-1.5-12, AS AMENDED BY P.L.58-2011,
37 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2013]: Sec. 12. (a) Subject to subsection (b), the officers of
39 the new township government shall:

- 40 (1) obtain from the department of local government finance
- 41 approval under IC 6-1.1-18.5-7 of:
- 42 (A) a budget;

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- 1 (B) an ad valorem property tax levy; and
- 2 (C) a property tax rate;
- 3 (2) fix the annual budget under IC 6-1.1-17;
- 4 (3) impose a property tax levy; and
- 5 (4) take any action necessary to ensure the collection of fees and
- 6 other revenue;

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

9 (b) **The resolutions approving the township government merger**
10 **under this chapter must specify the amount (if any) of the decrease**
11 **that the department of local government finance shall establish criteria**
12 **for making an adjustment make to the maximum permissible property**
13 **tax levies, maximum permissible property tax rates, and budgets under**
14 **IC 6-1.1-17 and IC 6-1.1-18.5 if of the new township realizes through**
15 **a merger under this chapter a: to:**

- 16 (1) savings; or
- 17 (2) reduction in the reasonably foreseeable expenses that would
- 18 otherwise have been incurred by the political subdivision if the
- 19 merger had not taken place:

- 20 (1) **eliminate double taxation for services or goods provided**
- 21 **by the new township; or**
- 22 (2) **eliminate any excess by which the amount of property**
- 23 **taxes imposed by the new township exceeds the amount**
- 24 **necessary to pay for services or goods provided under this**
- 25 **article.**

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

- 28 (1) include in the township's budget part of the budgeted amounts
- 29 that would otherwise be reduced by the department of local
- 30 government finance on account of the realized savings or
- 31 reduction in expenses that occurs because of the merger; and
- 32 (2) impose part of a property tax levy that would otherwise be
- 33 reduced by the department of local government finance on
- 34 account of the realized savings or reduction in expenses that
- 35 occurs because of the merger:

36 (d) The additional amount that a political subdivision may continue
37 to levy or include in the political subdivision's budget because of the
38 adjustment under subsection (b) may not exceed the result of:

- 39 (1) the savings or reduction in expenses realized in the first full
- 40 year of operation after the merger is implemented; as determined
- 41 by the department of local government finance; multiplied by
- 42 (2) a percentage determined as follows:

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- 1 (A) Fifty percent (50%) in the first year of the adjustment.
- 2 (B) Fifty percent (50%) in the second year of the adjustment.
- 3 (C) Thirty percent (30%) in the third year of the adjustment.
- 4 (D) Ten percent (10%) in the fourth year of the adjustment and
- 5 thereafter.

6 (c) The fiscal body of the new township shall determine and certify
 7 to the department of local government finance the amount of the
 8 adjustment that the new township wishes to accept (if any) under this
 9 section: subsection (b). The amount of the adjustment (if any) to be
 10 made under subsection (b) must comply with the resolutions
 11 approving the township government merger.

12 SECTION 16. IC 36-6-1.5-13 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) This section applies only
 15 to a county having a consolidated city.

16 (b) A township merger under this chapter does not affect the
 17 following:

- 18 (1) The powers or terms of office of the judge of a small
- 19 claims court.
- 20 (2) The jurisdiction or powers of a small claims court.

21 (c) A township merger under this chapter may not result in the
 22 reduction of the term of a township constable of a former township
 23 government. However, at the end of the term of the elected
 24 constables, the offices shall be consolidated into one elected office
 25 for the merged township.

26 (d) In a merger involving a township that operates a fire
 27 department or fire protection territory, the township fire
 28 department or fire protection territory may not be expanded into
 29 the fire special service district of the consolidated city or a
 30 township that has consolidated its fire department or fire
 31 protection territory.

32 SECTION 17. IC 36-7-14-3.7 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE UPON PASSAGE]: Sec. 3.7. (a) As used in this
 35 chapter, "development area" means a redevelopment project area,
 36 economic development area, or urban renewal project area
 37 established under this chapter.

38 (b) The jurisdiction and control over a development area
 39 established by the redevelopment commission of a first
 40 municipality may be transferred from that redevelopment
 41 commission to the redevelopment commission of a second, adjacent
 42 municipality if:

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- 1 (1) the owners of one hundred percent (100%) of the real
- 2 property in the development area consent to the transfer;
- 3 (2) the fiscal body of the first municipality and the fiscal body
- 4 of the second, adjacent municipality:
- 5 (A) adopt or have adopted:
- 6 (i) substantially similar ordinances; or
- 7 (ii) an interlocal agreement;
- 8 consenting to the transfer of the jurisdiction and control
- 9 over the development area; and
- 10 (B) agree or have agreed to transfer the geographic
- 11 territory comprising the development area from the first
- 12 municipality to the second, adjacent municipality through
- 13 disannexation, interlocal agreement, or any other legal
- 14 means;
- 15 (3) no tax increment from an allocation area within the
- 16 development area has been pledged for the payment of bonds
- 17 or the payment of lease rentals; and
- 18 (4) either the first municipality or the second, adjacent
- 19 municipality has before the date of the transfer completed a
- 20 reorganization under IC 36-1.5.
- 21 (c) If the requirements of subsection (b) are satisfied:
- 22 (1) the jurisdiction and control over the development area is
- 23 transferred without any other action required from the fiscal
- 24 bodies, the redevelopment commissions, or the plan
- 25 commissions of the municipalities or from any other state or
- 26 local entity;
- 27 (2) the development area is thereafter part of the territory
- 28 that is under the jurisdiction and control of the
- 29 redevelopment commission of the second, adjacent
- 30 municipality;
- 31 (3) the development area or the redevelopment plan may be
- 32 altered or amended by the second, adjacent municipality and
- 33 the redevelopment commission of the second, adjacent
- 34 municipality as otherwise provided in this chapter; and
- 35 (4) any property taxes collected within the development area
- 36 that were payable to the first municipality, to any taxing
- 37 district of the first municipality, or to the redevelopment
- 38 commission of the first municipality shall after the transfer be
- 39 payable to the second, adjacent municipality, to the taxing
- 40 districts of the second, adjacent municipality, or to the
- 41 redevelopment commission of the second, adjacent
- 42 municipality, as appropriate.

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1 (d) If, before January 1, 2013, the redevelopment commission of
2 the first municipality has entered into an agreement to reimburse
3 a person or political subdivision for infrastructure improvements
4 from tax increments from an allocation area within the
5 development area, the obligation to make the reimbursement is
6 transferred to the redevelopment commission of the second,
7 adjacent municipality upon the effective date of the transfer of the
8 jurisdiction and control over the development area.

9 (e) The authority to transfer the jurisdiction and control over a
10 development area as provided in this section expires December 31,
11 2013.

12 SECTION 18. IC 36-8-19-8.5, AS AMENDED BY P.L.47-2007,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 8.5. (a) Participating units may agree to
15 establish an equipment replacement fund under this section to be used
16 to purchase fire protection equipment, including housing, that will be
17 used to serve the entire territory. To establish the fund, the legislative
18 bodies of each participating unit must adopt an ordinance (if the unit
19 is a county or municipality) or a resolution (if the unit is a township),
20 and that meets the following requirements **must be met:**

21 (1) The ordinance or resolution is identical to the ordinances and
22 resolutions adopted by the other participating units under this
23 section.

24 (2) The ordinance or resolution is adopted after January 1 but
25 before April 1.

26 (2) Before adopting the ordinance or resolution, each
27 participating unit must comply with the notice and hearing
28 requirements of IC 6-1.1-41-3.

29 (3) The ordinance or resolution authorizes the provider unit to
30 establish the fund.

- 31 (4) The ordinance or resolution includes at least the following:
32 (A) The name of each participating unit and the provider unit.
33 (B) An agreement to impose a uniform tax rate upon all of the
34 taxable property within the territory for the equipment
35 replacement fund.
36 (C) The contents of the agreement to establish the fund.

37 An ordinance or a resolution adopted under this section takes effect
38 July 1 of the year the ordinance or resolution is adopted: as provided
39 in IC 6-1.1-41.

- 40 (b) If a fund is established, the participating units may agree to:
41 (1) impose a property tax to provide for the accumulation of
42 money in the fund to purchase fire protection equipment;

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1 (2) incur debt to purchase fire protection equipment and impose
 2 a property tax to retire the loan; or
 3 (3) transfer an amount from the fire protection territory fund to
 4 the fire equipment replacement fund not to exceed five percent
 5 (5%) of the levy for the fire protection territory fund for that year;
 6 or any combination of these options. The property tax rate for the levy
 7 imposed under this section may not exceed three and thirty-three
 8 hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed
 9 value. Before debt may be incurred, the fiscal body of a participating
 10 unit must adopt an ordinance (if the unit is a county or municipality) or
 11 a resolution (if the unit is a township) that specifies the amount and
 12 purpose of the debt. The ordinance or resolution must be identical to
 13 the other ordinances and resolutions adopted by the participating units.
 14 In addition, the department of local government finance must approve
 15 the incurrence of the debt using the same standards as applied to the
 16 incurrence of debt by civil taxing units.

17 (c) Money in the fund may be used by the provider unit only for
 18 those purposes set forth in the agreement among the participating units
 19 that permits the establishment of the fund.

20 **(d) The requirements and procedures specified in IC 6-1.1-41**
 21 **concerning the establishment or reestablishment of a cumulative**
 22 **fund, the imposing of a property tax for a cumulative fund, and the**
 23 **increasing of a property tax rate for a cumulative fund apply to:**

- 24 (1) the establishment or reestablishment of a fund under this
- 25 section;
- 26 (2) the imposing of a property tax for a fund under this
- 27 section; and
- 28 (3) the increasing of a property tax rate for a fund under this
- 29 section.

30 (e) Notwithstanding IC 6-1.1-18-12, if a fund established under
 31 this section is reestablished in the manner provided in IC 6-1.1-41,
 32 the property tax rate imposed for the fund in the first year after
 33 the fund is reestablished may not exceed three and thirty-three
 34 hundredths cents (\$0.0333) per one hundred dollars (\$100) of
 35 assessed value.

36 SECTION 19. 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. 459, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is made to Senate Bill 459 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 459, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 459 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 459 be amended to read as follows:

Page 2, delete lines 7 through 42.

Delete page 3.

Page 4, delete lines 1 through 18.

Page 4, delete lines 32 through 36, begin a new line block indented and insert:

"(2) Except as provided in subdivision (3):

(A) the reorganized political subdivision continues to be responsible after the reorganization for providing township services in all areas of the township, including within the territory of a municipality in the township that does not participate in the reorganization; and

(B) the reorganized political subdivision retains the powers



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of a township after the reorganization in order to provide township services as required by clause (A).

(3) Powers and duties of the reorganized political subdivision may be transferred as authorized in an interlocal cooperation agreement approved under IC 36-1-7 or as authorized in a cooperative agreement approved under IC 36-1.5-5.

(4) If all or part of a municipality in the township is not participating in the reorganization, not less than ten (10) township taxpayers who reside within territory that is not participating in the reorganization may file a petition with the county auditor protesting the reorganized political subdivision's township assistance levy. The petition must be filed not more than thirty (30) days after the reorganized political subdivision finally adopts the reorganized political subdivision's township assistance levy. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the reorganized political subdivision's township assistance levy is excessive or unnecessary. The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) days and not more than thirty (30) days after the receipt of the certified documents. The hearing shall be held in the county where the petition arose. Notice of the hearing shall be given by the department of local government finance to the reorganized political subdivision and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. After the hearing, the department of local government finance may reduce the reorganized political subdivision's township assistance levy to the extent that levy is excessive or unnecessary. A taxpayer who signed a petition under this subdivision or a reorganized political subdivision against which a petition under this subdivision is filed may petition for judicial review of the final determination of the department of local government finance under this subdivision. The petition must be filed in the tax court not more than forty-five (45) days after the date of the

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department of local government finance's final determination.
(5) Section 40 of this chapter applies to the debt service levy of the reorganized political subdivision and to the department of local government finance's determination of the new maximum permissible ad valorem property tax levy for the reorganized political subdivision.

(6) The reorganized political subdivision may not borrow money under IC 36-6-6-14(b) or IC 36-6-6-14(c).

(7) The new maximum permissible ad valorem property tax levy for the reorganized political subdivision's firefighting fund under IC 36-8-13-4 is equal to:

(A) the result of:

(i) the maximum permissible ad valorem property tax levy for the township's firefighting fund under IC 36-8-13-4 in the year preceding the year in which the reorganization is effective; multiplied by

(ii) the assessed value growth quotient applicable for property taxes first due and payable in the year in which the reorganization is effective; plus

(B) any amounts borrowed by the township under 36-6-6-14(b) or IC 36-6-6-14(c) in the year preceding the year in which the reorganization is effective."

Renumber all SECTIONS consecutively.

(Reference is to SB 459 as printed February 13, 2013.)

MILLER PETE

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 35(c), the following technical corrections are to be made to Engrossed Senate Bill 459.

Page 4, line 5, before "**36-6-6-14(b)**" insert "**IC**".

LONG, Chairperson

(Reference is to SB 459 as reprinted February 22, 2013.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 459, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 2. IC 36-1-7-16, AS ADDED BY P.L.58-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section applies to a political subdivision if:

- (1) the political subdivision enters into an agreement with one (1) or more other political subdivisions under this chapter to transfer, combine, or share powers, duties, functions, or resources; **and**
- (2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

- (A) savings; or

- (B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place. **and**

- (3) ~~the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:~~

- (A) ~~eliminate double taxation by different political subdivisions for services; or~~

- (B) ~~eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.~~

(b) **The political subdivision shall specify in the agreement described in subsection (a) the amount (if any) of the decrease that the department of local government finance shall establish criteria for making an adjustment make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a the political subdivision described in subsection (a): to:**

- (1) eliminate double taxation by different political subdivisions for services; or**

- (2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount**



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necessary to pay for services.

(c) The adjustment under subsection (b) must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and

(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

(1) the savings or reduction in expenses realized in the first full year of operation after the transfer, combination, or sharing of powers, duties, functions, or resources is implemented, as determined by the department of local government finance; multiplied by

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

(c) The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section: **(if any) to be made under subsection (b)**. The amount of any adjustment accepted by a political subdivision **the adjustment (if any) to be made under this section subsection (b)** must comply with the agreement under this chapter under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

SECTION 3. IC 36-1-8-17, AS ADDED BY P.L.58-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) This section applies to a political subdivision if:

(1) the political subdivision combines or reorganizes a department, agency, or function of the political subdivision; **and**

(2) the political subdivision realizes through the combination or reorganization a:

(A) savings; or

(B) reduction in the reasonably foreseeable expenses that

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would otherwise have been incurred by the political subdivision if the combination or reorganization had not taken place. and

(3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:

(A) eliminate double taxation; or

(B) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

(b) The **fiscal body of a political subdivision shall specify by resolution the amount (if any) of the decrease that the department of local government finance shall establish criteria for making an adjustment make** to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a) to:

(1) eliminate double taxation by different political subdivisions for services; or

(2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

(c) The adjustment under subsection (b) must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and

(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

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

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

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- (C) Thirty percent (30%) in the third year of the adjustment.
 (D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

(c) The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment ~~that the political subdivision wishes to accept under this section: (if any) to be made under subsection (b).~~

SECTION 4. IC 36-1.5-1-4, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. A political subdivision:

- (1) may exercise the powers granted under this article to reorganize or enter into cooperative agreements without complying with the provisions of any other law, statute, or rule; **and**
 (2) **may, after the reorganization, exercise any power described in IC 36-1.5-4-38.**

SECTION 5. IC 36-1.5-1-6, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. Except as otherwise specifically provided by law, to the extent the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling, and compliance with this article shall be treated as compliance with the conflicting law. **However, after the reorganization, the reorganized political subdivision may exercise any power described in IC 36-1.5-4-38.**

SECTION 6. IC 36-1.5-3-4, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) Subject to this chapter, the department of local government finance shall adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization under this article as ~~the department of local government finance determines necessary to~~ **provided in section 5 of this chapter.**

(b) **Upon the termination of a reorganization under this chapter, the department of local government finance shall adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions terminating the reorganization to do the following:**

- (1) Eliminate double taxation by different political subdivisions for services or goods provided under this article.
 (2) Eliminate any excess by which the amount of property taxes imposed by a political subdivision exceeds the amount necessary



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to pay for services or goods provided under this article:

(3) (1) Restore taxing powers of a political subdivision after the termination of a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

(4) (2) Restore taxing powers of a political subdivision after the withdrawal of a party from a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

SECTION 7. IC 36-1.5-3-5, AS AMENDED BY P.L.58-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies; maximum permissible property tax rates; and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if a political subdivision (or a successor political subdivision) realizes through a reorganization under this article; including a reorganization through a cooperative agreement under IC 36-1.5-5, a: (1) savings; or (2) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the reorganization had not taken place. **The plan of reorganization must specify the amount (if any) of the decrease that the department of local government finance shall make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of the reorganized political subdivision to:**

- (1) eliminate double taxation for services or goods provided by the reorganized political subdivision; or
- (2) eliminate any excess by which the amount of property taxes imposed by the reorganized political subdivision exceeds the amount necessary to pay for services or goods provided under this article.

(b) Except as provided in subsection (d); the adjustment under this section must permit the political subdivision to continue to:

- (1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance under section 4 of this chapter on account of the realized savings or reduction in expenses that occurs because of the reorganization; and
- (2) impose part of the property tax levy that would otherwise be reduced by the department of local government finance under section 4 of this chapter on account of the realized savings or



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reduction in expenses that occurs because of the reorganization:

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

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

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

(b) The fiscal body of the **reorganized** political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that ~~the political subdivision wishes to accept (if any) under this section.~~ **subsection (a).**

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

SECTION 8. IC 36-1.5-4-38, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 38. (a) A reorganized political subdivision has the powers granted by statute to a political subdivision of the same type as the reorganized political subdivision, **including a power described in subsection (b).** However, if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power or have the officers or number of offices that a statute would have permitted any of the reorganizing political subdivisions to have.

(b) **Except as provided in the plan of reorganization, a reorganized political subdivision may also do any of the following:**

(1) **Establish any fund that one (1) or more of the reorganizing political subdivisions (either acting on its own or jointly with another political subdivision) were authorized to establish before the reorganization.**

(2) **Impose any tax levy or adopt any tax that one (1) or more of the reorganizing political subdivisions were authorized to impose or adopt before the reorganization."**

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 9. IC 36-6-1.5-1, AS ADDED BY P.L.240-2005,



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SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. This chapter ~~does not apply to a township in a county containing a consolidated city:~~ **applies to all townships.**

SECTION 10. IC 36-6-1.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. (a) All of the following apply to a township that merges with another township under this chapter:**

(1) Notwithstanding any other law, the new township government may use any funds in excess of what the new township government determines is necessary to deliver effective service to pay the indebtedness of the new township government, including bonds and other indebtedness transferred to the new township government under section 8 of this chapter.

(2) Notwithstanding any other law, after the indebtedness described in subdivision (1) is satisfied, the new township government may do the following with any remaining excess funds:

(A) Transfer the funds to:

(i) the county in which the new township government is located; or

(ii) a municipality that has jurisdiction;

to make improvements to infrastructure located within the area of the new township government.

(B) Transfer the funds to a transportation corporation that offers service within the area of the new township government.

(C) Use the funds for improvement of any fire department that serves the area of the new township government.

(D) Transfer the funds to a political subdivision that has jurisdiction within the new township government for improvement of any fire department that provides service within the area of the new township government.

(b) Notwithstanding any other law, the department of local government finance shall take any and all appropriate action to assist townships in merging under this chapter and may not in any manner delay a merger of townships or prevent a merger of townships.

(c) This section shall be liberally construed to effect the purposes of this section.

(d) Notwithstanding any other law, to the extent the provisions

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of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter are controlling, and compliance with this chapter shall be treated as compliance with the conflicting law.

SECTION 11. IC 36-6-1.5-5, AS ADDED BY P.L.240-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter, must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). ~~The townships shall submit the resolutions to the county legislative body of the county within which the townships are located:~~

(d) ~~The county legislative body of the county where the township governments are located must: (1) adopt an ordinance ordering the merger; and (2) trustees of the participating townships shall jointly file a copy of the ordinance identical resolutions with:~~

- (1) the department of local government finance;**
- ~~(A)~~ **(2) the circuit court clerk; and**
- ~~(B)~~ **(3) the office of the secretary of state.**

(e) ~~The county~~ **A township** legislative body may not adopt an ~~ordinance a resolution~~ ordering a merger after January 1 of a year in which:

- (1) a general election is held; and
- (2) a township trustee is elected.

~~(f) The county legislative body may not adopt an ordinance merging township governments less than one (1) year before the merger becomes effective:~~

~~(g)~~ **(f)** A merger under this chapter may ~~not~~ reduce the term of a township trustee of a former township government.

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SECTION 12. IC 36-6-1.5-6, AS ADDED BY P.L.240-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. The merger becomes effective ~~when the officers of the new township government are elected and qualified: on~~ **January 1 of the year following the adoption of the resolution approving the merger of the townships.** An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.

SECTION 13. IC 36-6-1.5-12, AS AMENDED BY P.L.58-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) Subject to subsection (b), the officers of the new township government shall:

- (1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:
 - (A) a budget;
 - (B) an ad valorem property tax levy; and
 - (C) a property tax rate;
- (2) fix the annual budget under IC 6-1.1-17;
- (3) impose a property tax levy; and
- (4) take any action necessary to ensure the collection of fees and other revenue;

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

(b) **The resolutions approving the township government merger under this chapter must specify the amount (if any) of the decrease that the** department of local government finance shall ~~establish criteria for making an adjustment make~~ to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 ~~if of~~ the new township ~~realizes through a merger under this chapter a:~~ **to:**

- (1) savings; or
- (2) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the merger had not taken place:
 - (1) **eliminate double taxation for services or goods provided by the new township; or**
 - (2) **eliminate any excess by which the amount of property taxes imposed by the new township exceeds the amount necessary to pay for services or goods provided under this article.**
- (c) The adjustment under subsection (b) must permit the new



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township to continue to:

- (1) include in the township's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger; and
- (2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

- (1) the savings or reduction in expenses realized in the first full year of operation after the merger is implemented; as determined by the department of local government finance; multiplied by
- (2) a percentage determined as follows:
 - (A) Fifty percent (50%) in the first year of the adjustment.
 - (B) Fifty percent (50%) in the second year of the adjustment.
 - (C) Thirty percent (30%) in the third year of the adjustment.
 - (D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

(c) The fiscal body of the new township shall determine and certify to the department of local government finance the amount of the adjustment that the new township wishes to accept (if any) under this section: **subsection (b). The amount of the adjustment (if any) to be made under subsection (b) must comply with the resolutions approving the township government merger.**

SECTION 14. IC 36-6-1.5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 13. (a) This section applies only to a county having a consolidated city.**

(b) A township merger under this chapter does not affect the following:

- (1) The powers or terms of office of the judge of a small claims court.**
- (2) The jurisdiction or powers of a small claims court.**

(c) A township merger under this chapter may not result in the reduction of the term of a township constable of a former township government. However, at the end of the term of the elected constables, the offices shall be consolidated into one elected office for the merged township.

(d) In a merger involving a township that operates a fire



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department or fire protection territory, the township fire department or fire protection territory may not be expanded into the fire special service district of the consolidated city or a township that has consolidated its fire department or fire protection territory."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 459 as reprinted February 26, 2013, Technical Correction.)

MAHAN, Chair

Committee Vote: yeas 10, nays 2.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 16. IC 36-7-14-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) As used in this chapter, "development area" means a redevelopment project area, economic development area, or urban renewal project area established under this chapter.**

(b) The jurisdiction and control over a development area established by the redevelopment commission of a first municipality may be transferred from that redevelopment commission to the redevelopment commission of a second, adjacent municipality if:

- (1) the owners of one hundred percent (100%) of the real property in the development area consent to the transfer;**
- (2) the fiscal body of the first municipality and the fiscal body of the second, adjacent municipality:**

(A) adopt or have adopted:

- (i) substantially similar ordinances; or**
- (ii) an interlocal agreement;**

consenting to the transfer of the jurisdiction and control over the development area; and

(B) agree or have agreed to transfer the geographic territory comprising the development area from the first

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municipality to the second, adjacent municipality through disannexation, interlocal agreement, or any other legal means;

(3) no tax increment from an allocation area within the development area has been pledged for the payment of bonds or the payment of lease rentals; and

(4) either the first municipality or the second, adjacent municipality has before the date of the transfer completed a reorganization under IC 36-1.5.

(c) If the requirements of subsection (b) are satisfied:

(1) the jurisdiction and control over the development area is transferred without any other action required from the fiscal bodies, the redevelopment commissions, or the plan commissions of the municipalities or from any other state or local entity;

(2) the development area is thereafter part of the territory that is under the jurisdiction and control of the redevelopment commission of the second, adjacent municipality;

(3) the development area or the redevelopment plan may be altered or amended by the second, adjacent municipality and the redevelopment commission of the second, adjacent municipality as otherwise provided in this chapter; and

(4) any property taxes collected within the development area that were payable to the first municipality, to any taxing district of the first municipality, or to the redevelopment commission of the first municipality shall after the transfer be payable to the second, adjacent municipality, to the taxing districts of the second, adjacent municipality, or to the redevelopment commission of the second, adjacent municipality, as appropriate.

(d) If, before January 1, 2013, the redevelopment commission of the first municipality has entered into an agreement to reimburse a person or political subdivision for infrastructure improvements from tax increments from an allocation area within the development area, the obligation to make the reimbursement is transferred to the redevelopment commission of the second, adjacent municipality upon the effective date of the transfer of the jurisdiction and control over the development area.

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(e) The authority to transfer the jurisdiction and control over a development area as provided in this section expires December 31, 2013."

Renumber all SECTIONS consecutively.

(Reference is to ESB 459 as printed April 2, 2013.)

BRAUN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 7, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 8. IC 36-1.5-4-34.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 34.5. (a) This section applies to a reorganization under this chapter that:**

- (1) occurs after June 30, 2006; and**
- (2) involves one (1) or more municipalities and one (1) or more townships, all of which are participating units in a fire protection territory on the date the reorganization is approved by voters.**

(b) The fiscal body of a reorganized political subdivision that results from a reorganization described in subsection (a) may:

- (1) establish an equipment replacement fund under IC 36-8-19-8.5 and impose a property tax for the fund as provided in IC 36-8-19-8.5; and**
- (2) take any other action under IC 36-8-19-8.5 that may be taken under that section by a participating unit in a fire protection territory.**

(c) If a reorganized political subdivision establishes an equipment replacement fund under IC 36-8-19-8.5 as authorized by this section, the department of local government finance may adjust the maximum permissible ad valorem property tax levy that would otherwise apply to the reorganized political subdivision in the same manner in which the department may adjust the maximum permissible ad valorem property tax levy of a civil taxing unit under IC 6-1.1-18.5-10.5 to meet the civil taxing unit's obligations to a fire protection territory established under IC 36-8-19."

Page 10, line 26, delete "." and insert "to pay for, or make

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improvements to, services within the area of the new township government."

Page 10, line 27, delete "any fire department" and insert "**fire protection services within**".

Page 10, line 28, delete "that serves".

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 17. IC 36-8-19-8.5, AS AMENDED BY P.L.47-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) Participating units may agree to establish an equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township), **and that meets the following requirements must be met:**

(1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other participating units under this section.

(2) ~~The ordinance or resolution is adopted after January 1 but before April 1.~~

(2) Before adopting the ordinance or resolution, each participating unit must comply with the notice and hearing requirements of IC 6-1.1-41-3.

(3) The ordinance or resolution authorizes the provider unit to establish the fund.

(4) The ordinance or resolution includes at least the following:

(A) The name of each participating unit and the provider unit.

(B) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.

(C) The contents of the agreement to establish the fund.

An ordinance or a resolution adopted under this section takes effect ~~July 1 of the year the ordinance or resolution is adopted.~~ **as provided in IC 6-1.1-41.**

(b) If a fund is established, the participating units may agree to:

(1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;

(2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or

(3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent

(5%) of the levy for the fire protection territory fund for that year;



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or any combination of these options. The property tax rate for the levy imposed under this section may not exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value. Before debt may be incurred, the fiscal body of a participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies the amount and purpose of the debt. The ordinance or resolution must be identical to the other ordinances and resolutions adopted by the participating units. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

(d) The requirements and procedures specified in IC 6-1.1-41 concerning the establishment or reestablishment of a cumulative fund, the imposing of a property tax for a cumulative fund, and the increasing of a property tax rate for a cumulative fund apply to:

- (1) the establishment or reestablishment of a fund under this section;**
- (2) the imposing of a property tax for a fund under this section; and**
- (3) the increasing of a property tax rate for a fund under this section.**

(e) Notwithstanding IC 6-1.1-18-12, if a fund established under this section is reestablished in the manner provided in IC 6-1.1-41, the property tax rate imposed for the fund in the first year after the fund is reestablished may not exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value."

Renumber all SECTIONS consecutively.

(Reference is to ESB 459 as printed April 2, 2013.)

THOMPSON

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