

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	2

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:

- 1 Page 2, between lines 6 and 7, begin a new paragraph and insert:
- 2 "SECTION 2. IC 36-1-7-16, AS ADDED BY P.L.58-2011,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2013]: Sec. 16. (a) This section applies to a political
- 5 subdivision if:
- 6 (1) the political subdivision enters into an agreement with one (1)
- 7 or more other political subdivisions under this chapter to transfer,
- 8 combine, or share powers, duties, functions, or resources; **and**
- 9 (2) the political subdivision realizes through the transfer,
- 10 combination, or sharing of powers, duties, functions, or resources
- 11 a:
- 12 (A) savings; or
- 13 (B) reduction in the reasonably foreseeable expenses that
- 14 would otherwise have been incurred by the political
- 15 subdivision if the transfer, combination, or sharing of powers,

1 duties, functions, or resources had not taken place. and
 2 (3) the department of local government finance will otherwise
 3 decrease the maximum permissible property tax levies; maximum
 4 permissible property tax rates; or budgets of the political
 5 subdivision to:

6 (A) eliminate double taxation by different political
 7 subdivisions for services; 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 **political subdivision shall specify in the agreement**
 12 **described in subsection (a) the amount (if any) of the decrease that**
 13 **the department of local government finance shall establish criteria for**
 14 **making an adjustment make to the maximum permissible property tax**
 15 **levies, maximum permissible property tax rates, and budgets under**
 16 **IC 6-1.1-17 and IC 6-1.1-18.5 of a the political subdivision described**
 17 **in 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 transfer, combination, or sharing of
 37 powers, duties, functions, or resources is implemented, as
 38 determined by the department of local government finance;

- 1 multiplied by
- 2 ~~(2) a percentage determined as follows:~~
- 3 ~~(A) Fifty percent (50%) in the first year of the adjustment.~~
- 4 ~~(B) Fifty percent (50%) in the second year of the adjustment.~~
- 5 ~~(C) Thirty percent (30%) in the third year of the adjustment.~~
- 6 ~~(D) Ten percent (10%) in the fourth year of the adjustment and~~
- 7 ~~thereafter.~~

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

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

- 20 (1) the political subdivision combines or reorganizes a
- 21 department, agency, or function of the political subdivision; **and**
- 22 (2) the political subdivision realizes through the combination or
- 23 reorganization a:
- 24 (A) savings; or
- 25 (B) reduction in the reasonably foreseeable expenses that
- 26 would otherwise have been incurred by the political
- 27 subdivision if the combination or reorganization had not taken
- 28 place. ~~and~~
- 29 ~~(3) the department of local government finance will otherwise~~
- 30 ~~decrease the maximum permissible property tax levies, maximum~~
- 31 ~~permissible property tax rates, or budgets of the political~~
- 32 ~~subdivision to:~~
- 33 (A) eliminate double taxation; or
- 34 (B) eliminate any excess by which the amount of property
- 35 taxes imposed by the political subdivision exceeds the amount
- 36 necessary to pay for services.

37 (b) The **fiscal body of a political subdivision shall specify by**
 38 **resolution the amount (if any) of the decrease that the department**

1 of local government finance shall ~~establish~~ criteria for making an
 2 ~~adjustment~~ **make** to the maximum permissible property tax levies,
 3 maximum permissible property tax rates, and budgets under
 4 IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in
 5 subsection (a) to:

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

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

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

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

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

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

27 (2) a percentage determined as follows:

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

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

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

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

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

37 SECTION 4. IC 36-1.5-1-4, AS ADDED BY P.L.186-2006,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2013]: Sec. 4. A political subdivision:

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

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

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

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

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

30 (1) ~~Eliminate double taxation by different political subdivisions~~
31 ~~for services or goods provided under this article.~~

32 (2) ~~Eliminate any excess by which the amount of property taxes~~
33 ~~imposed by a political subdivision exceeds the amount necessary~~
34 ~~to pay for services or goods provided under this article.~~

35 (3) (1) Restore taxing powers of a political subdivision after the
36 termination of a reorganization under this article that are
37 necessary to fund governmental services to the individuals and
38 entities served by the political subdivision.

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

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

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

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

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

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

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

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

37 (2) **Impose any tax levy or adopt any tax that one (1) or more**
 38 **of the reorganizing political subdivisions were authorized to**

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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, 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 of this chapter are inconsistent with the provisions of any other

1 **law, the provisions of this chapter are controlling, and compliance**
 2 **with this chapter shall be treated as compliance with the conflicting**
 3 **law.**

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

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

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

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

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

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

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

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

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

42 SECTION 12. IC 36-6-1.5-6, AS ADDED BY P.L.240-2005,
 43 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2013]: Sec. 6. The merger becomes effective ~~when the~~
 45 ~~officers of the new township government are elected and qualified: on~~
 46 **January 1 of the year following the adoption of the resolution**

1 **approving the merger of the townships.** An officer elected to
 2 represent the merged township government shall be considered to be
 3 a resident of the territory comprising the new township government
 4 unless the township merger is dissolved under IC 36-6-1.6.

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

9 (1) obtain from the department of local government finance
 10 approval under IC 6-1.1-18.5-7 of:

- 11 (A) a budget;
- 12 (B) an ad valorem property tax levy; and
- 13 (C) a property tax rate;

- 14 (2) fix the annual budget under IC 6-1.1-17;
- 15 (3) impose a property tax levy; and
- 16 (4) take any action necessary to ensure the collection of fees and
 17 other revenue;

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

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

- 27 (1) ~~savings; or~~
- 28 (2) ~~reduction in the reasonably foreseeable expenses that would~~
 29 ~~otherwise have been incurred by the political subdivision if the~~
 30 ~~merger had not taken place.~~

- 31 (1) **eliminate double taxation for services or goods provided**
 32 **by the new township; or**
- 33 (2) **eliminate any excess by which the amount of property**
 34 **taxes imposed by the new township exceeds the amount**
 35 **necessary to pay for services or goods provided under this**
 36 **article.**

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

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

- 1 (d) 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 subsection (b) may not exceed the result of:
- 4 (1) the savings or reduction in expenses realized in the first full
- 5 year of operation after the merger 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 (c) The fiscal body of the new township shall determine and certify
- 14 to the department of local government finance the amount of the
- 15 adjustment that the new township wishes to accept **(if any)** under this
- 16 section: **subsection (b). The amount of the adjustment (if any) to be**
- 17 **made under subsection (b) must comply with the resolutions**
- 18 **approving the township government merger.**
- 19 SECTION 14. IC 36-6-1.5-13 IS ADDED TO THE INDIANA
- 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 21 [EFFECTIVE JULY 1, 2013]: **Sec. 13. (a) This section applies only**
- 22 **to a county having a consolidated city.**
- 23 **(b) A township merger under this chapter does not affect the**
- 24 **following:**
- 25 **(1) The powers or terms of office of the judge of a small**
- 26 **claims court.**
- 27 **(2) The jurisdiction or powers of a small claims court.**
- 28 **(c) A township merger under this chapter may not result in the**
- 29 **reduction of the term of a township constable of a former township**
- 30 **government. However, at the end of the term of the elected**
- 31 **constables, the offices shall be consolidated into one elected office**
- 32 **for the merged township.**
- 33 **(d) In a merger involving a township that operates a fire**
- 34 **department or fire protection territory, the township fire**
- 35 **department or fire protection territory may not be expanded into**
- 36 **the fire special service district of the consolidated city or a**

1 **township that has consolidated its fire department or fire**
2 **protection territory."**

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 459 as reprinted February 26, 2013, Technical
 Correction.)

and when so amended that said bill do pass.

Representative Mahan