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.

HOUSE ENROLLED ACT No. 1585

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-1.1-18.5-3, AS AMENDED BY P.L.172-2011, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A civil taxing unit may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth (0.0001)), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in

C o p y

STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount of an excessive levy appeal granted under section 13 of this chapter for the ensuing calendar year.

STEP SEVEN: Determine the greater of STEP FIVE or STEP SIX.

(b) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a civil taxing unit that is located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section, ~~or~~ any other section of this chapter, **or IC 12-20-21-3.2,** and except as provided in subsection (c), the maximum permissible ad valorem property tax levy calculated under this section for the ensuing calendar year for a civil taxing unit subject to this section is equal to the civil taxing unit's maximum permissible ad valorem property tax levy for the current calendar year.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. In the case of a civil taxing unit that:

(1) is partially located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30; and

(2) is partially located in a county that is not described in subdivision (1);

the department of local government finance shall, notwithstanding subsection (b), adjust the portion of the civil taxing unit's maximum permissible ad valorem property tax levy that is attributable (as determined by the department of local government finance) to the county or counties described in subdivision (2). The department of local government finance shall adjust this portion of the civil taxing unit's maximum permissible ad valorem property tax levy so that, notwithstanding subsection (b), this portion is allowed to increase as otherwise provided in this section. If the department of local government finance increases the civil taxing unit's maximum permissible ad valorem property tax levy under this subsection, any additional property taxes imposed by the civil taxing unit under the adjustment shall be paid only by the taxpayers in the county or counties

C o p y

described in subdivision (2).

SECTION 2. IC 6-1.1-20.3-2, AS AMENDED BY P.L.145-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "distressed political subdivision" means a political subdivision designated as a distressed political subdivision by the board under section 6.5 **or 6.7** of this chapter.

SECTION 3. IC 6-1.1-20.3-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.7. (a) As used in this chapter, "township assistance property tax rate" means the property tax rate imposed for the payment of township assistance. In the case of a township that has a separately calculated maximum permissible ad valorem property tax levy for the township's township assistance administration property tax levy and the township's township assistance benefits property tax levy under IC 12-20-21-3.2, "township assistance property tax rate" means the sum of the property tax rate imposed for the township's township assistance administration property tax levy and the property tax rate imposed for the township's township assistance benefits property tax levy.**

(b) Subsection (c) applies only to a township for which the township's township assistance property tax rate for property taxes first due and payable in 2014 or in any year thereafter is more than the result of:

(1) the statewide average township assistance property tax rate (as determined by the department of local government finance) for property taxes first due and payable in that same year; multiplied by

(2) twelve (12).

(c) The board may in any year in which this subsection applies to a township (as provided in subsection (b)) designate a township described in subsection (b) as a distressed political subdivision, effective January 1 of the following year, regardless of whether the township has submitted a petition requesting to be designated as a distressed political subdivision.

SECTION 4. IC 6-1.1-20.3-7.5, AS ADDED BY P.L.145-2012, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7.5. (a) This section does not apply to a school corporation designated as a distressed political subdivision.

(b) If the board designates a political subdivision as a distressed political subdivision under section 6.5 **or 6.7** of this chapter, the board

C o p y

shall appoint an emergency manager for the distressed political subdivision. An emergency manager serves at the pleasure of the board.

(c) The chairperson of the board shall oversee the activities of an emergency manager.

(d) The distressed political subdivision shall pay the emergency manager's compensation and reimburse the emergency manager for actual and necessary expenses.

SECTION 5. IC 6-1.1-20.3-8.5, AS ADDED BY P.L.145-2012, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.5. (a) This section does not apply to school corporations.

(b) Notwithstanding any other law, an emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter shall do the following:

(1) Assume and exercise the authority and responsibilities of both the executive and the fiscal body of the political subdivision concerning the adoption, amendment, and enforcement of ordinances and resolutions relating to or affecting the fiscal stability of the political subdivision. However, the emergency manager does not have the power to impose taxes or fees in addition to the taxes or fees authorized by the political subdivision before the political subdivision was designated a distressed political subdivision.

(2) Review the political subdivision's budget.

(3) Review salaries of the political subdivision's employees.

(4) Conduct a financial and compliance audit of the internal operations of the political subdivision.

(5) Develop a written financial plan in consultation with the officials of the political subdivision not later than six (6) months after appointment.

(6) Develop a plan for paying all the political subdivision's outstanding obligations.

(7) Review existing labor contracts.

(8) Adopt a budget for the political subdivision for each calendar or fiscal year, as applicable, that the political subdivision remains a distressed political subdivision.

(9) Review payrolls and other claims against the political subdivision before payment.

(10) Make, approve, or disapprove the following:

(A) A contract.

(B) An expenditure.

C o p y

(C) A loan.

(D) The creation of any new position.

(E) The filling of any vacant position.

(11) Submit a written report to the board every three (3) months concerning:

(A) actions taken by the emergency manager;

(B) expenditures made by the distressed political subdivision; and

(C) the work that has been done to remove the distressed political subdivision from distressed status.

(12) Petition the board to terminate a political subdivision's status as a distressed political subdivision when the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision.

(c) An emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter may do the following:

(1) Renegotiate existing labor contracts and act as an agent of the political subdivision in collective bargaining.

(2) Reduce or suspend salaries of the political subdivision's employees.

(3) Enter into agreements with other political subdivisions for the provision of services.

(d) Except as provided in section ~~13(c)~~ **13(d)** of this chapter, an emergency manager of a distressed political subdivision retains the powers and duties described in subsections (b) and (c) until:

(1) the emergency manager resigns or dies;

(2) the board removes the emergency manager; or

(3) the political subdivision's status as a distressed political subdivision is terminated under section 13(b) **or 13(c)** of this chapter.

SECTION 6. IC 6-1.1-20.3-10, AS AMENDED BY P.L.145-2012, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A distressed political subdivision may petition the tax court for judicial review of a determination of the board under section 6.5 **or 6.7** of this chapter. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board of tax review. The petition must be filed in the tax court not more than forty-five (45) days after the board enters its final determination.

SECTION 7. IC 6-1.1-20.3-13, AS ADDED BY P.L.145-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) If:

C o p y

(1) an emergency manager of a distressed political subdivision that is not a school corporation;

(2) the fiscal body and executive of the political subdivision jointly; or

(3) the governing body of a school corporation that:

(A) employs a new superintendent; or

(B) has a new member elected or appointed to its governing body;

during the time the school corporation is a distressed political subdivision;

files a petition with the board for termination of the political subdivision's status as a distressed political subdivision, the board shall conduct a public hearing on the question of whether to terminate the political subdivision's status as a distressed political subdivision.

(b) **In the case of a political subdivision designated as distressed under section 6.5 of this chapter,** the board shall terminate the political subdivision's status as a distressed political subdivision if the board finds that the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision.

(c) In the case of a township designated as distressed under section 6.7 of this chapter, the board shall terminate the township's status as a distressed political subdivision if the board finds that the township's township assistance property tax rate (as defined in section 6.7(a) of this chapter) for the current calendar year is not more than the result of:

(1) the statewide average township assistance property tax rate (as determined by the department of local government finance) for property taxes first due and payable in that same year; multiplied by

(2) twelve (12).

~~(c)~~ **(d)** Notwithstanding any other section of this chapter, not later than ninety (90) days after taking office, a new executive of a distressed political subdivision may petition the board for suspension of the political subdivision's distressed status. **In the case of a political subdivision designated as distressed under section 6.5 of this chapter,** the executive must include in its petition a written plan to resolve the applicable issues described in section 6.5 of this chapter. **In the case of a township designated as distressed under section 6.7 of this chapter, the executive must include in its petition a written plan to lower the township's township assistance property tax rate (as defined in section 6.7(a) of this chapter).** If the board approves the executive's written plan, the board may suspend the political

C o p y

subdivision's distressed status for one hundred eighty (180) days. Suspension under this chapter terminates automatically upon expiration of the one hundred eighty (180) day period. The board may consider a petition to terminate the political subdivision's distressed status during a period of suspension.

SECTION 8. IC 12-20-21-3, AS AMENDED BY P.L.73-2005, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) **Except as provided in section 3.2 of this chapter,** a township trustee and township board may levy a specific tax for the purpose of providing money for the payment of township assistance expenses in the following year. The tax may be sufficient to meet the entire requirement of the township in the following year or the part that is determined to be proper.

(b) **Except as provided in section 3.2 of this chapter,** if a tax levy is established under subsection (a), all proceeds derived from the tax levy shall be distributed to the township at the same time and in the same manner as proceeds from other property tax levies are distributed to the township. The proceeds of the tax levy shall be held by the township in its township assistance account free and available for the payment of township assistance obligations of the township. The funds are continuing funds and do not revert to any other fund at the end of the year.

SECTION 9. IC 12-20-21-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.2. (a) This section applies only to a township if the township's township assistance property tax rate (as defined in IC 6-1.1-20.3-6.7(a)) for property taxes first due and payable in 2013 or any year thereafter is more than the result of:**

(1) the statewide average township assistance property tax rate (as determined by the department of local government finance) for property taxes first due and payable in that same year; multiplied by

(2) twelve (12).

(b) Notwithstanding any other law, beginning with property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), the department of local government finance shall do the following in the case of a township subject to this section:

(1) Remove the township assistance property tax levy from the maximum permissible ad valorem property tax levy for the township's general fund.

C o p y

(2) Require the township to separate its township assistance property tax levy into the following two (2) property tax levies:

(A) A township assistance benefits property tax levy.

(B) A township assistance administration property tax levy.

(3) Calculate a separate maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for each of the township's property tax levies described in subdivision (2).

(c) The department of local government finance shall, for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), determine the initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance administration property tax levy.

(d) The initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance benefits property tax levy for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), is equal to the amount determined in the following STEPS:

STEP ONE: Determine the result of:

(A) the township's township assistance property tax levy for property taxes first due and payable in the year in which this section first applies to the township, as provided in subsection (a); minus

(B) the result determined by the department of local government finance for the township under subsection (c).

STEP TWO: Multiply the STEP ONE result by the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

(e) The maximum permissible ad valorem property tax levy for the township's general fund shall be adjusted as determined in the following STEPS:

STEP ONE: Multiply:

(A) the township's township assistance property tax levy for property taxes first due and payable in the year in which this section first applies to the township, as provided in subsection (a); by

(B) the assessed value growth quotient under

C o p y

IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

STEP TWO: Subtract the STEP ONE result from the maximum permissible ad valorem property tax levy that would otherwise apply for the township's general fund.

The adjustment under this subsection applies beginning with property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

(f) The property taxes collected from a township's township assistance administration property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the administration of township assistance within the township; and

(3) shall not be used to pay township assistance to any person.

(g) The property taxes collected from a township's township assistance benefits property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the purpose of paying township assistance to eligible recipients; and

(3) shall not be used to pay for the administration of township assistance within the township.

(h) Except as provided in this section, references in the Indiana Code to a township assistance property tax levy shall, in the case of a township subject to this section, be considered a reference to the township's township assistance benefits property tax levy and the township's township assistance administration property tax levy.

SECTION 10. IC 36-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 1.5. Transfer of Municipal Territory to an Adjacent Township

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

Sec. 2. As used in this chapter, "eligible municipality" means a municipality that:

(1) includes any territory located in a township for which the township assistance property tax rate for property taxes first due and payable in 2015 or in any year thereafter is more

C o p y

than:

(A) the statewide average township assistance property tax rate for property taxes first due and payable in that same year (as determined by the department of local government finance); multiplied by

(B) twelve (12); and

(2) is adjacent to one (1) or more townships other than the township described in subdivision (1).

Sec. 3. As used in this chapter, "township assistance property tax rate" has the meaning set forth in IC 6-1.1-20.3-6.7(a).

Sec. 4. As used in this chapter, "transferor township" means a township described in section 2(1) of this chapter.

Sec. 5. This chapter does not prohibit the:

(1) reorganization; or

(2) alteration of the boundaries;

of one (1) or more townships under any other law.

Sec. 6. The territory of an eligible municipality that is located in a transferor township may be transferred from the transferor township to an adjacent township within the county as provided in this chapter.

Sec. 7. The voters of an eligible municipality may file a petition with the clerk of the eligible municipality to have a public question placed on the ballot under section 8 of this chapter to allow voters to vote on whether the territory of the eligible municipality should be transferred to an adjacent township within the county. A petition under this section must be signed by at least the number of voters equal to thirty percent (30%) of the votes cast in the eligible municipality in the last election for secretary of state.

Sec. 8. The following apply if the voters of an eligible municipality file a sufficient petition under section 7 of this chapter:

(1) The clerk of the eligible municipality shall certify the petition to the county election board.

(2) A special election on the public question shall be held in the eligible municipality in the manner prescribed by IC 3-10-8-6. The special election shall be held on a date that:

(A) is determined by the legislative body of the eligible municipality; and

(B) is not more than one (1) year after the date on which the clerk of the eligible municipality certifies the petition to the county election board.

(3) The clerk of the eligible municipality shall give notice of

C o p y

the special election by publication in the manner prescribed by IC 5-3-1.

(4) The eligible municipality shall pay the costs of holding the special election.

(5) The county election board shall place the following question on the ballot in the eligible municipality:

"Shall the territory of _____ (insert the name of the eligible municipality) be transferred from _____ (insert the name of the transferor township) to an adjacent township?".

(6) After the special election on the public question is held, the county election board:

(A) shall file with the clerk of the eligible municipality the results of the special election for each precinct of the eligible municipality in the manner prescribed by IC 3-12-4; and

(B) shall certify a copy of the results of the special election to:

(i) the county auditor;

(ii) the legislative body and executive of the eligible municipality; and

(iii) the legislative body and executive of each township that includes territory of the eligible municipality.

Sec. 9. The following apply if at least two-thirds (2/3) of the voters voting in a special election under this chapter vote "yes" on the public question under this chapter:

(1) The legislative body of the eligible municipality may, within one (1) year after the special election, submit a petition to one (1) or more adjacent townships requesting an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township.

(2) The legislative body of an adjacent township that receives a petition under subdivision (1) may adopt a resolution accepting the transfer of the territory of the eligible municipality that is within the transferor township and specifying the date on which the transfer is effective. However, the legislative body of the adjacent township may adopt a resolution accepting the transfer of the territory of the eligible municipality only within the one (1) year period following the date on which the legislative body receives the petition.

(3) If the legislative body of the eligible municipality submits

C o p y

a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the special election, but a resolution accepting the transfer of the territory of the eligible municipality within the transferor township is not adopted by the legislative body of an adjacent township within the one (1) year period following the date on which the last legislative body of a township receives such a petition:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent special election under this chapter may not be held in the eligible municipality.

(4) If the legislative body of the eligible municipality does not submit a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the special election:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent special election under this chapter may not be held in the eligible municipality.

Sec. 10. If less than two-thirds (2/3) of the voters voting in a special election under this chapter vote "yes" on the public question under this chapter:

(1) the territory of the eligible municipality may not be transferred under this chapter; and

(2) a subsequent special election under this chapter may not be held in the eligible municipality.

Sec. 11. (a) If the legislative body of a township that receives a petition under section 9(2) of this chapter adopts a resolution accepting the transfer of the eligible municipality's territory that is within the transferor township as provided in section 9(2) of this chapter, the territory of the eligible municipality that is within the transferor township is transferred to and becomes part of the township adopting the resolution on the date specified in the resolution.

(b) If more than one (1) adjacent township adopts a resolution as provided in section 9(2) of this chapter accepting the transfer of the territory of the eligible municipality that is within the transferor township, the territory of the eligible municipality that is within the transferor township is transferred to and becomes part of the township that is first to adopt the resolution.

Sec. 12. (a) Except as provided in subsection (c), if the transferor township is indebted or has outstanding unpaid bonds or other obligations at the time the transfer is effective, the township to

C o p y

which the territory is transferred is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property transferred bears to the assessed valuation of all property in the transferor township, as determined for the last assessment date before the transfer.

(b) Except as provided in subsection (c), if the indebtedness consists of outstanding unpaid bonds or notes of the transferor township, the payments to the transferor township shall be made as the principal or interest on the bonds or notes becomes due. Except as provided in subsection (c), the township to which the territory is transferred may impose property taxes to pay the outstanding indebtedness only within the territory that is transferred, and the territory that is transferred constitutes a special taxing district for purposes of paying the outstanding indebtedness. The department of local government finance shall determine the amount of outstanding indebtedness, if any, for which taxpayers of the territory that has been transferred remain liable under this section.

(c) After a transfer of territory of an eligible municipality is effective under this chapter, the following apply to debt incurred by a transferor township during the period beginning one (1) year before the date on which a petition is filed with the clerk of the eligible municipality under section 7 of this chapter and ending on the date the transfer of territory is effective:

(1) The township to which the territory is transferred is not liable for and is not required to pay any part of that indebtedness.

(2) A property tax may not be imposed on the taxpayers of the transferred territory to pay any part of that indebtedness.

(3) The territory that is transferred does not constitute a special taxing district for purposes of paying any part of that indebtedness.

Sec. 13. The department of local government finance shall adjust the maximum permissible ad valorem property tax levies of the:

(1) transferor township; and

(2) township to which territory is transferred under this chapter;

as the department of local government finance determines is necessary to reflect the transfer of the territory.

Sec. 14. A transfer of territory under this chapter may not take effect during the year preceding a year in which a federal decennial

C o p y

census is conducted. A transfer of territory under this chapter that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which the federal decennial census is conducted.

SECTION 11. IC 36-6-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. **(a) This section does not apply to a township that is altered under IC 36-1-1.5.**

(b) After creation of a township or alteration of a township's boundaries, the township must have:

(1) a surface area of at least twelve (12) square miles and an assessed valuation of at least two million dollars ($2,000,000); or

(2) a surface area of at least twenty-four (24) square miles;

unless it was created or altered under section 3 of this chapter.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall, during the interim in 2013 between sessions of the general assembly, study the following issues:**

(1) The administrative costs of providing township assistance.

(2) The reporting of the administrative costs of providing township assistance.

(b) The commission shall report its findings and recommendations, if any, to the legislative council in an electronic format under IC 5-14-6 before November 1, 2013.

(c) This SECTION expires January 1, 2014.

SECTION 13. **An emergency is declared for this act.**

C o p y

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

C o p y