

SENATE BILL No. 19

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1.5-4.

Synopsis: Local government reorganizations. Requires (rather than allows) the use of a "rejection threshold" in the case of a proposed local government reorganization involving a county and a municipality. (Under current law, the use of a rejection threshold that must be satisfied by both the voters of the municipality and by the county voters outside the municipality is optional.) Specifies that in such a proposed reorganization, the rejection threshold (the percentage of the vote needed to reject the proposed reorganization) may not exceed 50% of the vote in the municipality or 50% of the vote in the area of the county outside the municipality.

Effective: Upon passage.

Tomes

January 7, 2013, read first time and referred to Committee on Local Government.

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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.

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SENATE BILL No. 19



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

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

1 SECTION 1. IC 36-1.5-4-10, AS ADDED BY P.L.186-2006,
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 10. (a) The legislative body of a political
 4 subdivision may initiate a proposed reorganization under this chapter
 5 by adopting a resolution that:
 6 (1) proposes a reorganization; **and**
 7 (2) names the political subdivisions that would be reorganized in
 8 the proposed reorganization. **and**
 9 (3) ~~only in the case of a proposed reorganization described in~~
 10 ~~section 1(a)(9) of this chapter, states whether the vote on the~~
 11 ~~public question regarding the reorganization shall be:~~
 12 (A) ~~conducted on a countywide basis under section 30(b) of~~
 13 ~~this chapter, without a rejection threshold; or~~
 14 (B) ~~conducted on a countywide basis under section 30(b) of~~
 15 ~~this chapter, with a rejection threshold.~~
 16 (b) The clerk of the political subdivision adopting the resolution
 17 shall certify the resolution to the clerk of each political subdivision



1 named in the resolution.

2 SECTION 2. IC 36-1.5-4-12, AS ADDED BY P.L.186-2006,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 12. (a) If a petition is certified to the
5 legislative body of a political subdivision under section 11 of this
6 chapter, the legislative body shall conduct a public hearing on the
7 proposed reorganization not sooner than five (5) days after publishing
8 a notice of the public hearing under IC 5-3-1. Not more than thirty (30)
9 days after the conclusion of the public hearing the legislative body shall
10 adopt a resolution, substantially in the form prescribed by the
11 department of local government finance, to do any of the following:

- 12 (1) Decline to participate in the proposed reorganization.
- 13 (2) Propose a reorganization with the political subdivisions named
14 in the petition.
- 15 (3) Propose a reorganization with political subdivisions that differ
16 in part or in whole from the political subdivisions named in the
17 petition.

18 ~~(b) In the case of a resolution adopted under this section proposing~~
19 ~~a reorganization described in section 1(a)(9) of this chapter, the~~
20 ~~resolution must also state whether the vote on the public question~~
21 ~~regarding the reorganization shall be:~~

- 22 ~~(1) conducted on a countywide basis under section 30(b) of this~~
23 ~~chapter, without a rejection threshold; or~~
- 24 ~~(2) conducted on a countywide basis under section 30(b) of this~~
25 ~~chapter, with a rejection threshold.~~

26 ~~(c) (b)~~ The clerk of the political subdivision adopting a resolution
27 proposing a reorganization under this section shall certify the
28 resolution to the clerk of each political subdivision named in the
29 resolution.

30 SECTION 3. IC 36-1.5-4-13, AS ADDED BY P.L.186-2006,
31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]: Sec. 13. (a) The legislative body of a political
33 subdivision that receives a certified resolution under section 10 or 12
34 of this chapter may do any of the following:

- 35 (1) Adopt a resolution declining to participate in a proposed
36 reorganization.
- 37 (2) Adopt a substantially identical resolution proposing to
38 participate in a proposed reorganization with the political
39 subdivisions named in a resolution certified to the political
40 subdivision.
- 41 (3) Adopt a resolution proposing to participate in a proposed
42 reorganization with political subdivisions that differ in part or in

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- 1 whole from the political subdivisions named in a resolution
 2 certified to the political subdivision.
- 3 ~~(b) In the case of a resolution adopted under this section proposing~~
 4 ~~to participate in a proposed reorganization described in section 1(a)(9)~~
 5 ~~of this chapter, the resolution must also state whether the vote on the~~
 6 ~~public question regarding the reorganization shall be:~~
- 7 ~~(1) conducted on a countywide basis under section 30(b) of this~~
 8 ~~chapter, without a rejection threshold; or~~
- 9 ~~(2) conducted on a countywide basis under section 30(b) of this~~
 10 ~~chapter, with a rejection threshold.~~
- 11 ~~(c) (b) The clerk of the political subdivision adopting a resolution~~
 12 ~~proposing a reorganization under this section shall certify the~~
 13 ~~resolution to the clerk of each political subdivision named in the~~
 14 ~~resolution.~~
- 15 SECTION 4. IC 36-1.5-4-18, AS AMENDED BY P.L.113-2010,
 16 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A reorganization
 18 committee shall prepare a comprehensive plan of reorganization for the
 19 reorganizing political subdivisions. The plan of reorganization governs
 20 the actions, duties, and powers of the reorganized political subdivision
 21 that are not specified by law.
- 22 (b) The plan of reorganization must include at least the following:
- 23 (1) The name and a description of the reorganized political
 24 subdivision that will succeed the reorganizing political
 25 subdivisions.
- 26 (2) A description of the boundaries of the reorganized political
 27 subdivision.
- 28 (3) Subject to section 40 of this chapter, a description of the
 29 taxing areas in which taxes to retire obligations of the
 30 reorganizing political subdivisions will be imposed.
- 31 (4) A description of the membership of the legislative body, fiscal
 32 body, and executive of the reorganized political subdivision, a
 33 description of the election districts or appointment districts from
 34 which officers will be elected or appointed, and the manner in
 35 which the membership of each elected or appointed office will be
 36 elected or appointed.
- 37 (5) A description of the services to be offered by the reorganized
 38 political subdivision and the service areas in which the services
 39 will be offered.
- 40 (6) The disposition of the personnel, the agreements, the assets,
 41 and, subject to section 40 of this chapter, the liabilities of the
 42 reorganizing political subdivisions, including the terms and

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1 conditions upon which the transfer of property and personnel will
2 be achieved.

3 (7) Any other matter that the:

4 (A) reorganization committee determines to be necessary or
5 appropriate; or

6 (B) legislative bodies of the reorganizing political subdivisions
7 require the reorganization committee;

8 to include in the plan of reorganization.

9 (8) In the case of a reorganization described in section 1(a)(9) of
10 this chapter, ~~if the legislative bodies of the reorganizing political~~
11 ~~subdivisions have specified that the vote on the public question~~
12 ~~regarding the reorganization shall be conducted on a countywide~~
13 ~~basis under section 30(b) of this chapter with a rejection~~
14 ~~threshold,~~ the reorganization committee shall include in the
15 reorganization plan a rejection threshold, specified as a
16 percentage, that applies for purposes of section 32(b) of this
17 chapter. The rejection threshold must be the same for each
18 municipality that is a party to the proposed reorganization and to
19 the county that is a party to the proposed reorganization. **The**
20 **rejection threshold may not exceed fifty percent (50%).**

21 (9) In the case of a reorganization described in section 1(a)(9) of
22 this chapter, the reorganization committee shall determine and
23 include in the reorganization plan the percentage of voters voting
24 on the public question regarding the proposed reorganization who
25 must vote, on a countywide basis, in favor of the proposed
26 reorganization for the public question to be approved. This
27 percentage is referred to in this chapter as the "countywide vote
28 approval percentage". The countywide vote approval percentage
29 must be greater than fifty percent (50%).

30 (10) The statement required by subsection ~~(e)~~: **(d)**.

31 ~~(c) In the case of a reorganization described in section 1(a)(9) of this~~
32 ~~chapter, the reorganization committee may not change the decision of~~
33 ~~the legislative bodies of the reorganizing political subdivisions~~
34 ~~regarding whether the vote on the public question regarding the~~
35 ~~reorganization shall be conducted on a countywide basis without a~~
36 ~~rejection threshold or with a rejection threshold.~~

37 ~~(d)~~ **(c)** Upon completion of the plan of reorganization, the
38 reorganization committee shall present the plan of reorganization to the
39 legislative body of each of the reorganizing political subdivisions for
40 adoption. The initial plan of reorganization must be submitted to the
41 legislative body of each of the reorganizing political subdivisions not
42 later than one (1) year after the clerk of the last political subdivision

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1 that adopts a reorganization resolution under this chapter has certified
 2 the resolution to all of the political subdivisions named in the
 3 resolution. In the case of a plan of reorganization submitted to a
 4 political subdivision by a reorganization committee after June 30, 2010,
 5 the political subdivision shall post a copy of the plan of reorganization
 6 on an Internet web site maintained or authorized by the political
 7 subdivision not more than thirty (30) days after receiving the plan of
 8 reorganization from the reorganization committee.

9 (e) (d) A reorganization committee must include in the plan of
 10 reorganization submitted to a political subdivision after June 30, 2010,
 11 a statement of:

12 (1) whether a fiscal impact analysis concerning the proposed
 13 reorganization has been prepared or has not been prepared by or
 14 on behalf of the reorganization committee; and

15 (2) whether a fiscal impact analysis concerning the proposed
 16 reorganization has been made available or has not been made
 17 available to the public by or on behalf of the reorganization
 18 committee.

19 SECTION 5. IC 36-1.5-4-23.5, AS ADDED BY P.L.186-2006,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 23.5. The following apply if the legislative
 22 bodies of all political subdivisions that have been presented with a plan
 23 of reorganization under ~~section 18(d)~~ **section 18(c)** of this chapter have
 24 not adopted a plan of reorganization, either as presented by the
 25 reorganization committee or as modified by all of the political
 26 subdivisions, within one (1) year after the initial plan of reorganization
 27 is presented:

28 (1) Not later than one (1) month after the end of the one (1) year
 29 period in which the legislative bodies must adopt a plan of
 30 reorganization, the reorganization committee shall submit a final
 31 plan of reorganization to the legislative bodies of the political
 32 subdivisions.

33 (2) Not later than one (1) month after receiving the final plan of
 34 reorganization under subdivision (1), each of the legislative
 35 bodies must:

36 (A) hold a hearing on the final plan of reorganization; and

37 (B) adopt either a resolution approving the final plan of
 38 reorganization or a resolution rejecting the final plan of
 39 reorganization.

40 If a legislative body does not adopt a resolution under this
 41 subdivision within the one (1) month period, the failure to adopt
 42 a resolution is considered to be an approval of the final plan of

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1 reorganization.

2 (3) If a legislative body adopts a resolution approving the final
3 plan of reorganization, the legislative body shall certify its
4 approval under section 23 of this chapter.

5 (4) If any of the legislative bodies adopts a resolution rejecting the
6 final plan of reorganization, the registered voters of a political
7 subdivision in which the final plan of reorganization was rejected
8 by a legislative body under subdivision (2) may submit a petition
9 to the clerk of the circuit court approving the final plan of
10 reorganization and requesting that a public question be held on
11 the final plan of reorganization. The petition must be submitted
12 not later than one hundred eighty (180) days after the legislative
13 body voted to reject the final plan of reorganization. If the petition
14 is signed by at least ten percent (10%) of the voters of the political
15 subdivision, as determined by the vote cast in the political
16 subdivision for secretary of state at the most recent general
17 election:

18 (A) the political subdivision is considered to have approved
19 the holding of the public question on the final plan of
20 reorganization, notwithstanding the vote by the legislative
21 body rejecting the final plan of reorganization; and

22 (B) the clerk of the circuit court shall certify approval of the
23 final plan of the reorganization and the holding of the public
24 question in the manner specified in section 23 of this chapter.

25 SECTION 6. IC 36-1.5-4-30, AS ADDED BY P.L.186-2006,
26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 UPON PASSAGE]: Sec. 30. (a) Except as provided in subsection (b),
28 at the same time that election results are certified under IC 3, the circuit
29 court clerk of each of the counties in which a public question under this
30 chapter is on the ballot shall jointly issue, in the form prescribed by the
31 state election board, a certificate declaring whether the public question
32 is approved or rejected by a majority of the voters voting on the public
33 question in each of the reorganizing political subdivisions. In addition
34 to any other requirements in IC 3 concerning filing of the certification,
35 the certification shall be sent to each of the following:

- 36 (1) The clerk of each of the reorganizing political subdivisions.
37 (2) The county auditor of each county in which a reorganizing
38 political subdivision is located.
39 (3) The county recorder of each county in which a reorganizing
40 political subdivision is located.
41 (4) The state board of accounts.
42 (5) The department of local government finance.

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1 (6) The department of state revenue.

2 (7) The budget agency.

3 (8) If any of the reorganizing political subdivisions is a school
4 corporation, the department of education.

5 (b) In the case of a public question on a reorganization described in
6 section 1(a)(9) of this chapter:

7 (1) the public question on a plan of reorganization shall be placed
8 on the ballot for consideration by the voters of the entire county;

9 (2) the vote on the public question by the voters of the entire
10 county shall be tabulated;

11 ~~(3) if the legislative bodies of the reorganizing political~~
12 ~~subdivisions have agreed that the vote on the public question shall~~
13 ~~be conducted with a rejection threshold;~~ the vote on the public
14 question by the voters of:

15 (A) each reorganizing municipality; and

16 (B) the county (excluding the voters of the reorganizing
17 municipalities);

18 shall **also** be tabulated separately; and

19 (4) the circuit court clerk shall issue, in a form prescribed by the
20 state election board, separate certificates regarding whether the
21 public question is approved or rejected by the voters of:

22 (A) the entire county;

23 (B) each reorganizing municipality; ~~(if the legislative bodies~~
24 ~~of the reorganizing political subdivisions have agreed that the~~
25 ~~vote on the public question shall be conducted with a rejection~~
26 ~~threshold); and~~

27 (C) the county, excluding the voters of the reorganizing
28 municipalities; ~~(if the legislative bodies of the reorganizing~~
29 ~~political subdivisions have agreed that the vote on the public~~
30 ~~question shall be conducted with a rejection threshold);~~

31 voting on the public question.

32 SECTION 7. IC 36-1.5-4-32, AS ADDED BY P.L.186-2006,
33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 UPON PASSAGE]: Sec. 32. (a) This subsection does not apply to a
35 reorganization described in section 1(a)(9) of this chapter. A
36 reorganization as specified in the plan of reorganization is approved if
37 a majority of the voters in each reorganizing political subdivision
38 voting on the public question approve the public question on the
39 reorganization. The vote of voters of a reorganizing political
40 subdivision (for example, a city) who also are voters in a second
41 reorganizing political subdivision (for example, a township) that is
42 geographically larger than the first political subdivision and that

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1 includes the territory of the first political subdivision shall be included
 2 only in the tally of votes for the first reorganizing political subdivision
 3 in which the voters reside.

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

6 (1) the percentage of voters voting on the public question who
 7 vote, on a countywide basis, in favor of the proposed
 8 reorganization is at least equal to the countywide vote approval
 9 percentage specified in the final reorganization plan;

10 (2) ~~if the legislative bodies of the reorganizing political~~
 11 ~~subdivisions have agreed that the vote on the public question shall~~
 12 ~~be conducted with a rejection threshold;~~ the percentage of voters
 13 of the county (excluding the voters of the reorganizing
 14 municipalities) voting on the public question who vote against the
 15 reorganization is less than the rejection threshold included in the
 16 final reorganization plan; and

17 (3) ~~if the legislative bodies of the reorganizing political~~
 18 ~~subdivisions have agreed that the vote on the public question shall~~
 19 ~~be conducted with a rejection threshold;~~ the percentage of voters
 20 of each reorganizing municipality voting on the public question
 21 who vote against the reorganization is less than the rejection
 22 threshold included in the final reorganization plan.

23 If the reorganization is not approved, the reorganization is terminated.
 24 ~~If the legislative bodies of the reorganizing political subdivisions have~~
 25 ~~agreed that the vote in the public question shall be conducted with a~~
 26 ~~rejection threshold;~~ then In tabulating the votes under subdivisions (2)
 27 and (3), the vote of voters of a reorganizing municipality who also are
 28 voters in the county shall be included only in the tally of votes for the
 29 municipality in which the voters reside.

30 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) IC 36-1.5-4-10,
 31 IC 36-1.5-4-12, IC 36-1.5-4-13, IC 36-1.5-4-18, IC 36-1.5-4-23.5,
 32 IC 36-1.5-4-30, and IC 36-1.5-4-32, all as amended by this act,
 33 apply to proposed reorganizations under IC 36-1.5 that are voted
 34 on by voters of a reorganizing political subdivision after the
 35 effective date of this act, regardless of when the plan of
 36 reorganization is adopted.

37 (b) This SECTION expires January 1, 2016.

38 SECTION 9. An emergency is declared for this act.

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