SENATE BILL No. 475

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-22; IC 3-8-1-21; IC 3-10; IC 3-11-2; IC 16-22-2; IC 35-51-36-1; IC 36-1; IC 36-2; IC 36-5-1-20; IC 36-9.

Synopsis: Local government issues. Provides that in counties other than Marion County, the county executive may adopt an ordinance to change the executive and legislative structure of county government. Specifies that if such an ordinance is adopted by the county executive, a public question shall be held in the county on whether the executive and legislative structure of county government should be changed. Provides that if the public question is approved, the voters of the county shall not elect a board of county commissioners, but shall instead elect a single county commissioner to serve as the county executive and shall elect a county council that has the legislative and fiscal powers and duties of the county. Provides that in a county with a single county commissioner: (1) the initial single county commissioner is elected in the second general election after the public question to change the structure of county government is approved; (2) the board of county commissioners is abolished when the first single county commissioner takes office; and (3) the county council shall (except in Lake County or St. Joseph County) be elected from seven single-member districts. Provides that if the office of single county commissioner becomes vacant, the county council shall appoint an individual to serve as interim single county commissioner until the office is filled. Provides that in a county that has abolished the board of county commissioners and has elected a single county commissioner, the county council may adopt an ordinance changing the county government structure back to a structure that includes the election of a board of county commissioners (instead of a single county commissioner). Provides that if such an ordinance is adopted, a public

(Continued next page)

Effective: Upon passage.

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January 14, 2013, read first time and referred to Committee on Local Government.

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question shall be held to determine whether the county government structure shall be changed back to a structure that includes the election of a board of county commissioners. Provides that in a county that has a single county commissioner, the drainage board consists of: (1) the single county commissioner; and (2) two or four persons (as determined by the county council) who are appointed by the county council. Specifies the appointments to and the membership of a governing board of a county hospital in a county that has a single county commissioner.

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Introduced

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. 475

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:

SECTION 1. IC 3-5-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. "Executive" means **the:**

(1) board of county commissioners, for a county ~~not having~~ **that:**

(A) does not have a consolidated city; **and**

(B) is not subject to IC 36-2-2.5;

(2) single county commissioner elected under IC 3-10-2-13, for a county that:

(A) does not have a consolidated city; and

(B) is subject to IC 36-2-2.5;

~~(2)~~ **(3)** mayor of the consolidated city, for a county having a consolidated city;

~~(3)~~ **(4)** mayor, for a city;

~~(4)~~ **(5)** president of the town council, for a town; or

~~(5)~~ **(6)** trustee, for a township.

SECTION 2. IC 3-8-1-21 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 21. **(a)** A candidate for the office of county commissioner must:

(1) have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and

(2) have resided in the district in which seeking election, if applicable, for at least six (6) months before the election.

(b) This subsection applies only to elections in a county in which a single county commissioner under IC 36-2-2.5 is elected under IC 3-10-2-13. A candidate for the office of single county commissioner must have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana.

SECTION 3. IC 3-10-1-19, AS AMENDED BY P.L.6-2012, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

[] (1) AB_____

[] (2) CD_____

[] (3) EF _____

[] (4) GH_____

(b) Local public questions shall be placed on the primary election ballot after the voting instructions described in subsection (a) and before the offices described in subsection (e).

(c) The local public questions described in subsection (b) shall be placed:

(1) in a separate column on the ballot if voting is by paper ballot;

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(2) after the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-13-11 if voting is by ballot card; or

(3) as provided by either of the following if voting is by an electronic voting system:

(A) On a separate screen for a public question.

(B) After the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-14-3.5.

(d) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"

[] YES
[] NO

(e) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Prosecuting attorney.

(E) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

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(F) County surveyor.
(G) County assessor.
(H) County commissioner. **However, in a county that is subject to IC 36-2-2.5 only one (1) county commissioner shall be elected.**
(I) County council member.
(5) Township offices:
(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(f) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (e):
(1) Precinct committeeman.
(2) State convention delegate.

(g) The local offices to be elected at the primary election shall be placed on the primary election ballot after the offices described in subsection (f).

(h) The offices described in subsection (g) shall be placed:
(1) in a separate column on the ballot if voting is by paper ballot;
(2) after the offices described in subsection (f) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
(3) either:
(A) on a separate screen for each office or public question; or
(B) after the offices described in subsection (f) in the form specified in IC 3-11-14-3.5;
if voting is by an electronic voting system.

SECTION 4. IC 3-10-2-13, AS AMENDED BY P.L.146-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The following public officials shall be

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elected at the general election before their terms of office expire and every four (4) years thereafter:

(1) Clerk of the circuit court.
(2) County auditor.
(3) County recorder.
(4) County treasurer.
(5) County sheriff.
(6) County coroner.
(7) County surveyor.
(8) County assessor.
(9) County commissioner. **However, in a county that is subject to IC 36-2-2.5 only one (1) county commissioner shall be elected.**
(10) County council member.
(11) Township trustee.
(12) Township board member.
(13) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
(14) Judge of a small claims court.
(15) Constable of a small claims court.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.6-2012, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The following offices shall be placed on the general election ballot in the following order after the public questions described in section 10(a) of this chapter:

(1) Federal and state offices:
  (A) President and Vice President of the United States.
  (B) United States Senator.
  (C) Governor and lieutenant governor.
  (D) Secretary of state.
  (E) Auditor of state.
  (F) Treasurer of state.
  (G) Attorney general.
  (H) Superintendent of public instruction.
  (I) United States Representative.
(2) Legislative offices:
  (A) State senator.
  (B) State representative.
(3) Circuit offices and county judicial offices:
  (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

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(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Prosecuting attorney.
(E) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner. **However, in a county that is subject to IC 36-2-2.5 only one (1) county commissioner shall be elected.**
(I) County council member.
(5) Township offices:
(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

SECTION 6. IC 13-11-2-74 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 74. "Executive" means the:

(1) board of commissioners of a county ~~not having~~ **that:**
(A) does not have a consolidated city; **and**
(B) is not subject to IC 36-2-2.5;
(2) single county commissioner elected under IC 3-10-2-13, for a county that:

Copy

(A) does not have a consolidated city; and
(B) is subject to IC 36-2-2.5;

~~(2)~~ **(3)** mayor of the consolidated city, for a county having a consolidated city;

~~(3)~~ **(4)** mayor of a city; or

~~(4)~~ **(5)** president of the town council of a town.

SECTION 7. IC 16-22-2-11, AS AMENDED BY P.L.80-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in section 12 **or 14** of this chapter, whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of the following:

(1) At least one (1) but not more than three (3) candidates for each vacancy to be filled to the appointing authority.

(2) Qualifications for assessment of a candidate for each vacancy.

(b) For each vacancy, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the candidates submitted by the governing board.

(2) Request and receive from the governing board a second list of at least one (1) but not more than three (3) candidates.

(3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

The appointing authority shall consider the list of qualifications submitted by the governing board under subsection (a)(2) when making an appointment.

(c) If the appointing authority requests and receives a second list of candidates under subsection (b)(2), the appointing authority may do one (1) of the following:

(1) Appoint one (1) candidate named in the second list.

(2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of candidates submitted by the governing board.

(d) The appointment for a vacancy shall be made not more than sixty (60) days after submission of the initial list of candidates under subsection (a).

(e) If the vacancy occurred due to the expiration of a member's term and the vacancy is not filled within sixty (60) days of the expiration date, the member whose term expired is automatically reappointed for another term.

(f) Each candidate submitted by the governing board must meet the requirements concerning governing board members.

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SECTION 8. IC 16-22-2-12, AS AMENDED BY P.L.119-2012, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to governing boards of a county hospital in a county having a population of more than:

(1) seventeen thousand three hundred fifty (17,350) but less than eighteen thousand (18,000);

(2) twenty-six thousand (26,000) but less than twenty-six thousand five hundred (26,500); and

(3) forty-two thousand three hundred (42,300) but less than forty-three thousand (43,000).

(b) The appointing authority shall appoint a member to fill a vacancy on the governing board within sixty (60) days after the vacancy occurs.

(c) Notwithstanding subsections (a) and (b), the county executive's appointments to the governing body of a county hospital located in a county described in subsection (a)(1) shall be made under section 14 of this chapter if a single county commissioner holds office as the executive of the county under IC 36-2-2.5.

SECTION 9. IC 16-22-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) This section applies to the governing board of a county hospital established and operated under this chapter in a county in which a single county commissioner holds office under IC 36-2-2.5 as the county executive.**

(b) This section governs only appointments to the governing board of a county hospital that are made by the county executive as appointing authority under this chapter. This section does not affect appointments to the governing board of a county hospital that are to be made by:

(1) an appointing authority under this chapter other than the county executive; or

(2) an appointing board under section 8 of this chapter.

(c) This section does not apply to appointments made to increase the size of a governing board under section 7 of this chapter.

(d) Except as provided in subsection (g), whenever a vacancy to be filled by the county executive occurs on the governing board, the existing governing board shall submit to the county executive the following:

(1) A list of three (3) candidates to fill the vacancy.

(2) A list of qualifications for assessment of the three (3)

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candidates for the vacancy.

(e) The county executive shall appoint one (1) of the candidates submitted by the governing board. The county executive shall consider the list of qualifications submitted by the governing board under subsection (d)(2) when making the appointment.

(f) The appointment for a vacancy shall be made not more than sixty (60) days after submission of the list of candidates under subsection (d).

(g) If the vacancy is due to the expiration of a member's term and the existing governing board determines to seek the reappointment of the member to the governing board, the existing governing board shall submit the member's name to the county executive for reappointment. Upon receiving the governing board's submission, the county executive shall reappoint the member for another term. If the county executive does not reappoint the member within sixty (60) days after the executive's receipt of the governing board's submission, the member whose term expired is automatically reappointed for another term.

SECTION 10. IC 16-22-2-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) This section applies to the governing board of a county hospital established and operated under this chapter in a county:**

(1) in which a single county commissioner holds office under IC 36-2-2.5 as the county executive; and

(2) in which the county executive has membership on the governing board under section 3, 3.1, 4, or 5 of this chapter.

(b) Following the decrease in the number of county commissioners from three (3) to one (1) upon the assumption of office by the initial single county commissioner under IC 36-2-2.5, the three (3) memberships on the hospital's governing board previously held by the three (3) county commissioners in their capacity as county executive shall be filled as follows:

(1) The initial single county commissioner, and each subsequent single county commissioner under IC 36-2-2.5, shall serve as a member of the county hospital's governing board in the commissioner's capacity as county executive.

(2) The two (2) remaining memberships shall be filled using the procedure for filling governing board vacancies set forth in section 14(d) of this chapter. After the initial appointment of these two (2) members, any vacancy in these memberships must be filled under section 14(d) or 14(g) of this chapter, as

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appropriate.

SECTION 11. IC 35-51-36-1, AS AMENDED BY P.L.132-2012, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following statutes define crimes in IC 36:

IC 36-2-2-13 (Concerning county government).

IC 36-2-2.5-15 (Concerning single county commissioners).

IC 36-2-6-8 (Concerning county government).

IC 36-2-6-12 (Concerning county government).

IC 36-2-7-18 (Concerning county government).

IC 36-2-8-6 (Concerning county government).

IC 36-2-9-13 (Concerning county government).

IC 36-2-9-14 (Concerning county government).

IC 36-2-9.5-7 (Concerning county government).

IC 36-2-9.5-9 (Concerning county government).

IC 36-2-13-5 (Concerning county government).

IC 36-2-14-10 (Concerning county government).

IC 36-2-14-17 (Concerning county government).

IC 36-2-14-21 (Concerning county government).

IC 36-4-8-13 (Concerning government of cities and towns).

IC 36-7-12-27.5 (Concerning planning and development).

IC 36-7-14-40 (Concerning planning and development).

IC 36-7-15.1-27 (Concerning planning and development).

IC 36-7-30-28 (Concerning planning and development).

IC 36-7-30.5-36 (Concerning planning and development).

IC 36-8-3.5-23 (Concerning public safety).

IC 36-8-10-9 (Concerning public safety).

IC 36-8-16.7-41 (Concerning public safety).

IC 36-8-16.7-45 (Concerning public safety).

IC 36-8-16.7-46 (Concerning public safety).

IC 36-9-14-7 (Concerning transportation and public works).

IC 36-10-3-39 (Concerning recreation, culture, and community facilities).

IC 36-10-4-5 (Concerning recreation, culture, and community facilities).

IC 36-10-4-40 (Concerning recreation, culture, and community facilities).

SECTION 12. IC 36-1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Executive" means **the:**

(1) board of commissioners, for a county ~~not having~~ **that:**

(A) does not have a consolidated city; **and**

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(B) is not subject to IC 36-2-2.5;

(2) single county commissioner elected under IC 3-10-2-13, for a county that:

(A) does not have a consolidated city; and

(B) is subject to IC 36-2-2.5;

~~(2)~~ **(3)** mayor of the consolidated city, for a county having a consolidated city;

~~(3)~~ **(4)** mayor, for a city;

~~(4)~~ **(5)** president of the town council, for a town;

~~(5)~~ **(6)** trustee, for a township;

~~(6)~~ **(7)** superintendent, for a school corporation; or

~~(7)~~ **(8)** chief executive officer, for any other political subdivision.

SECTION 13. IC 36-1-2-9, AS AMENDED BY P.L.186-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Legislative body" means the:

(1) board of county commissioners, for a county not subject to **IC 36-2-2.5,** IC 36-2-3.5, or IC 36-3-1;

(2) county council, for a county subject to **IC 36-2-2.5 or** IC 36-2-3.5;

(3) city-county council, for a consolidated city or county having a consolidated city;

(4) common council, for a city other than a consolidated city;

(5) town council, for a town;

(6) township board, for a township;

(7) governing body of any other political subdivision that has a governing body; or

(8) chief executive officer of any other political subdivision that does not have a governing body.

SECTION 14. IC 36-1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either:

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;

(2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

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(c) An ordinance under subsection (b)(1) must be adopted as follows:

(1) In a municipality, by the legislative body of the municipality.

(2) In a county subject to **IC 36-2-2.5,** IC 36-2-3.5, or IC 36-3-1, by the legislative body of the county.

(3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.

SECTION 15. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as specifically provided,** this chapter ~~applies to all counties not~~ **does not apply to the following:**

(1) A county having a consolidated city.

(2) A county in which a single county commissioner has been elected and is serving under IC 36-2-2.5.

SECTION 16. IC 36-2-2-4, AS AMENDED BY P.L.119-2012, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

(1) the members of the Indiana election commission;

(2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and

(3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is

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required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives. **If a county to which this subsection applies adopts a county government structure in which a single county commissioner is elected under IC 36-2-2.5, the county redistricting commission under this subsection is not abolished and continues in existence for purposes of dividing, as necessary, the county into county council districts.**

(c) This subsection applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 17. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.4. Determination of County Government Structure

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

Sec. 2. (a) Subject to subsection (b), the county executive may adopt an ordinance providing that the voters of the county shall elect:

(1) a single county commissioner under IC 36-2-2.5 who has the executive powers and duties of the county; and

(2) a county council that has the legislative and fiscal powers and duties of the county.

(b) An ordinance may be adopted under this chapter only:

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(1) during an odd-numbered year; or
(2) before July 1 of an even-numbered year.
(c) If an ordinance is adopted under this section:
(1) the county auditor shall certify the adoption of the ordinance to the county election board; and
(2) a public question shall be held in the county on whether the executive and legislative structure and functions of the county should be reorganized under IC 36-2-2.5.
Sec. 3. If an ordinance is certified under section 2(c) of this chapter, the county election board shall place the following public question on the ballot at the next general election held in the county:
"Shall the county government of (insert the name of the county) County be reorganized to place all executive powers in a single county commissioner and to place all legislative and fiscal powers in the county council?".
Sec. 4. IC 3, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter. A public question under this chapter must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.
Sec. 5. If a majority of the voters of a county who vote on a public question placed on the ballot under this chapter vote in favor of the public question, the executive and legislative structure and functions of the county shall be reorganized under IC 36-2-2.5.
SECTION 18. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:
Chapter 2.5. Single County Commissioner
Sec. 1. Except as specifically provided by law, this chapter applies to each county:
(1) that does not have a consolidated city; and
(2) in which a local public question under IC 36-2-2.4 making the county executive a single county commissioner has been approved by the voters of the county.
Sec. 2. As used in this chapter, "single county commissioner" means the single county commissioner elected under IC 3-10-2-13.
Sec. 3. In a county to which this chapter applies:
(1) the voters of the county:
(A) shall elect one (1) county commissioner in the second general election after the local public question under IC 36-2-2.4 is approved and every four (4) years

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thereafter; and

(B) beginning with the second general election after the local public question under IC 36-2-2.4 is approved, shall not elect a board of county commissioners;

(2) the board of county commissioners for the county is abolished January 1 of the year following the year in which the first single county commissioner is elected;

(3) notwithstanding IC 36-2-2-3, the term of each county commissioner serving on December 31 of the year in which the first single county commissioner is elected expires January 1 of the year following the year in which the first single county commissioner is elected;

(4) except as provided in IC 36-2-3-4.1(b), the county council shall divide the county into seven (7) single-member county council districts as required by IC 36-2-3-4.1; and

(5) in the case of the counties described in IC 36-2-3-4.1(b), the county council districts shall be divided as provided in IC 36-2-3-4(b) and IC 36-2-3-4(c) (as appropriate).

Sec. 4. (a) The term of office of a single county commissioner is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

(b) To be eligible for election as the single county commissioner, an individual must meet the qualifications under IC 3-8-1-21. If an individual does not remain a resident of the county after taking office as the single county commissioner, the individual forfeits the office. The county legislative body shall declare the office vacant whenever the single county commissioner forfeits the office under this subsection.

(c) If the office of single county commissioner becomes vacant, the county council shall appoint an individual to serve as the single county commissioner until the office is filled under IC 3-13.

Sec. 5. (a) On January 1 following the year in which the first single county commissioner is elected, all property, assets, funds, equipment, records, rights, contracts, obligations, and liabilities of the board of county commissioners of a county are transferred to or assumed by the single county commissioner.

(b) The abolishment of the board of county commissioners of a county on January 1 following the year in which the first single county commissioner is elected does not invalidate any:

(1) ordinances, resolutions, fees, schedules, or other actions adopted or taken by the board of county commissioners before the board is abolished; or

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(2) appointments made by the board of county commissioners before the board is abolished.

Sec. 6. (a) All powers and duties of the county that are executive or administrative in nature (including any power of appointment related to executive or administrative functions) shall be exercised or performed by the single county commissioner, except to the extent that these powers and duties are expressly assigned by law to another elected or appointed officer. The single county commissioner shall transact the business of the county in the name of "The County Commissioner of the County of _____".

(b) For purposes of a county subject to this chapter, after December 31 of the year in which the first single county commissioner is elected, any reference in:

(1) the Indiana Code;

(2) the Indiana Administrative Code;

(3) an ordinance or resolution; or

(4) any deed, lease, contract, or other official document or instrument;

to the board of commissioners pertaining to the executive powers of a county shall be considered a reference to the single county commissioner of the county.

(c) For purposes of a county subject to this chapter, after December 31 of the year in which the first single county commissioner is elected, any reference in:

(1) the Indiana Code;

(2) the Indiana Administrative Code;

(3) an ordinance or resolution; or

(4) any deed, lease, contract, or other official document or instrument;

related to the executive powers and duties of the board of county commissioners shall be considered a reference to the powers and duties of the single county commissioner of the county.

(d) For purposes of a county subject to this chapter, after December 31 of the year in which the first single county commissioner is elected, the county council has the legislative and fiscal powers and duties of the county under IC 36-2-3.7.

(e) Appointments to and the membership of a governing board of a county hospital established and operated under IC 16-22-2 in a county in which a single county commissioner holds office as the executive of the county are governed by IC 16-22-2-14 and IC 16-22-2-15.

Sec. 7. The single county commissioner shall do the following:

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(1) Report on the condition of the county before March 1 of each year to the county legislative body and to the county residents.

(2) Recommend before March 1 of each year to the county legislative body any action or program the single county commissioner considers necessary for the improvement of the county and the welfare of county residents.

(3) Submit to the county legislative body an annual budget in accordance with IC 36-2-5.

(4) Establish procedures to be followed by all county departments, offices, and agencies under the single county commissioner's jurisdiction to the extent these procedures are not expressly assigned by law to another elected or appointed officer.

(5) Administer all statutes, ordinances, and regulations applicable to the county, to the extent the administration of these matters is not expressly assigned by law to another elected or appointed officer.

(6) Supervise the care and custody of all county property.

(7) Supervise the collection of revenues, control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned by law to another elected or appointed officer.

(8) Review, analyze, and forecast trends for county services and finances and programs of all county governmental entities, and report on and make recommendations concerning the services, finances, and programs to the county legislative body by March 15 of each year.

(9) Negotiate contracts for the county.

(10) Make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Do the following in January of each year:

(A) Make a settlement with the county treasurer for the preceding calendar year and include a copy of the settlement sheet in the order book of the single county commissioner.

(B) Make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The

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statement must include the name of and total compensation paid to each county officer, deputy, and employee. The single county commissioner shall post this statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.

(13) Perform other duties and functions that are assigned to the single county commissioner by statute or ordinance.

Sec. 8. The single county commissioner may do any of the following:

(1) Order any department, office, or agency under the single county commissioner's jurisdiction to undertake any task for another department, office, or agency under the single county commissioner's jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government.

(2) Establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

(3) Audit the accounts of officers who deal with money belonging to or appropriated for the benefit of the county.

(4) Approve accounts chargeable against the county and direct the raising of money necessary for county expenses.

(5) Make orders concerning county property, including orders for:

(A) the sale of the county's public buildings and the acquisition of land in the county seat on which to build new public buildings; and

(B) the acquisition of land for a public square and the maintenance of that square.

However, a conveyance or purchase by a county of land having a value of one thousand dollars ($1,000) or more must be authorized by an ordinance of the county legislative body fixing the terms and conditions of the transaction.

Sec. 9. (a) The single county commissioner shall establish and maintain a county courthouse, county jail, and public offices for the county clerk, the county auditor, the county recorder, the county treasurer, the county sheriff, and the county surveyor.

(b) Offices for the county surveyor must be in the courthouse or at the county seat.

(c) Offices for the county sheriff may be located:

(1) in the courthouse;

(2) inside the corporate limits of the county seat; or

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(3) outside the corporate limits of the county seat but within the limits of the county.

Sec. 10. (a) The single county commissioner may grant licenses, permits, or franchises for the use of county property if the licenses, permits, or franchises:

(1) are not exclusive;

(2) are of a definite duration; and

(3) are assignable only with the consent of the single county commissioner.

(b) If a public utility or municipally owned or operated utility that carries on business outside the corporate boundaries of municipalities in the county is engaged in an activity substantially similar to that for which a license, permit, or franchise for the use of county property is sought, the single county commissioner may grant the license, permit, or franchise only with the consent of the Indiana utility regulatory commission. The commission may give its consent only if the commission determines, after a public hearing of all interested parties, that public necessity and convenience require the substantially similar activity.

(c) The provisions of this section that concern securing the consent of the Indiana utility regulatory commission do not apply to municipally owned or operated utilities.

Sec. 11. Notwithstanding any other law, if a statute requires a county executive to take an executive action by ordinance or resolution, a single county commissioner shall instead take the action by issuing an executive order.

Sec. 12. (a) If the single county commissioner is disqualified from acting in a quasi-judicial proceeding, the single county commissioner shall cease to act in that proceeding. Not later than ten (10) days after the finding that the single county commissioner is disqualified to act in a proceeding, the county auditor shall send a certified copy of the record of the proceeding to the judge of the circuit court for the county. If the judge affirms the disqualification of the single county commissioner, the judge shall appoint a disinterested and competent person to serve as a special executive in the proceeding.

(b) A person who consents to serve as a special executive must have the same qualifications as an elected single county commissioner. The person's appointment and oath shall be filed with the county auditor and entered on the records of the single county commissioner. A person appointed as a special executive may conduct the proceeding until a final determination is reached.

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Sec. 13. The single county commissioner shall keep the single county commissioner's office open on each business day.

Sec. 14. Appointments made by the single county commissioner shall be certified by the county auditor, under the seal of the single county commissioner.

Sec. 15. (a) The single county commissioner may employ a person:

(1) to perform a duty required of a county officer by statute; or

(2) on a commission or percentage basis;

only if the employment is expressly authorized by statute or is found by the single county commissioner to be necessary to the public interest.

(b) If a person's employment under subsection (a) is not expressly authorized by statute, the contract for the person's employment must be filed with the circuit court for the county, and the person must file the person's claims for compensation with that court. Any taxpayer may contest a claim under this section.

(c) A single county commissioner who recklessly violates this section commits a Class C misdemeanor and forfeits the person's office.

Sec. 16. The single county commissioner shall appear before the legislative body of the county at least once each month and at other times as needed to conduct all necessary county business.

Sec. 17. (a) If a party to a proceeding before the single county commissioner is aggrieved by a decision of the single county commissioner, the party may appeal that decision to the circuit court for the county.

(b) A person who is not a party to a proceeding before the single county commissioner may appeal a decision of the single county commissioner only if the person files with the county auditor an affidavit:

(1) specifically setting forth the person's interest in the matter decided; and

(2) alleging that the person is aggrieved by the decision of the single county commissioner.

(c) An appeal under this section must be taken not later than thirty (30) days after the single county commissioner makes the decision by which the appellant is aggrieved.

(d) An appellant under this section must file with the county auditor a bond conditioned on due prosecution of the appeal. The bond is subject to approval by the county auditor and must be in

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an amount sufficient to provide security for court costs.

(e) Not later than twenty (20) days after the county auditor receives the appeal bond, the county auditor shall prepare a complete transcript of the proceedings of the single county commissioner related to the decision appealed from and shall deliver the transcript, all documents filed during the proceedings, and the appeal bond to the clerk of the circuit court.

Sec. 18. (a) An appeal under section 17 of this chapter shall be docketed among the other causes pending in the circuit court and shall be tried as an original cause.

(b) A court may decide an appeal under section 17 of this chapter by:

(1) affirming the decision of the single county commissioner; or

(2) remanding the cause to the single county commissioner with directions as to how to proceed;

and may require the single county commissioner to comply with this decision.

Sec. 19. (a) The county auditor or the single county commissioner may administer any oaths required by this chapter.

(b) The county sheriff or a county police officer shall attend the meetings of the single county commissioner, if requested by the single county commissioner, and shall execute the single county commissioner's orders.

Sec. 20. (a) Appointments made by the single county commissioner shall be certified by the county auditor, under the seal of the single county commissioner.

(b) If a copy of the single county commissioner's proceedings has been signed and sealed by the county auditor and introduced into evidence in court, that copy is presumed to be an accurate record of the single county commissioner's proceedings.

Sec. 21. If publication of a notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the single county commissioner may not make or pay for publication in more than one (1) newspaper unless publication in two (2) newspapers is required. A person who violates this section commits a Class C infraction.

Sec. 22. (a) The single county commissioner may employ and fix the compensation of an attorney to represent and advise the commissioner.

(b) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, employment by a single county commissioner as

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an attorney does not constitute a lucrative office.

SECTION 19. IC 36-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.7. Reversion to Previous County Government Structure

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

Sec. 2. As used in this chapter, "single county commissioner" means the single county commissioner elected under IC 3-10-2-13.

Sec. 3. A county that elects a single county commissioner under IC 36-2-2.5 may, as provided in this chapter, revert to a county government structure that has a board of county commissioners rather than a single county commissioner.

Sec. 4. (a) Subject to subsection (b), the county council may adopt an ordinance providing that the voters of the county shall elect:

(1) a three (3) member board of commissioners that has the:

(A) executive and legislative powers and duties of the county if the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; or

(B) executive powers and duties of the county if the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; and

(2) a county council that has the:

(A) fiscal powers and duties of the county if the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; or

(B) fiscal and legislative powers and duties of the county if the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5.

(b) An ordinance described in subsection (a) may be adopted under this chapter only:

(1) during an odd-numbered year; or

(2) before July 1 of an even-numbered year.

(c) If an ordinance is adopted under this section:

(1) the county auditor shall certify the adoption of the ordinance to the county election board; and

(2) a public question shall be held in the county under section 5 of this chapter on whether the executive and legislative structure and functions of the county should be reorganized

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under section 6 of this chapter.

Sec. 5. (a) If an ordinance is certified under section 4 of this chapter, the county election board shall place the following public question on the ballot at the next general election held in the county after the ordinance or petition is certified:

"Shall the county government of (insert the name of the county) County be reorganized to elect a board of county commissioners rather than a single county commissioner?".

(b) IC 3, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter. A public question under this chapter must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(c) If a majority of the voters of a county who vote on a public question placed on the ballot under this section vote in favor of the public question, the executive and legislative structure and functions of the county shall be reorganized under section 6 of this chapter.

Sec. 6. The following apply if a majority of the voters of a county who vote on a public question placed on the ballot under section 5 of this chapter vote in favor of the public question:

(1) The executive, the executive and legislative structure, and the functions of the county are reorganized as provided in this section.

(2) The voters of the county shall elect:

(A) a three (3) member board of commissioners that has the:

(i) executive and legislative powers and duties of the county if the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; or

(ii) executive powers and duties of the county if the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; and

(B) a county council that has the:

(i) fiscal powers and duties of the county if the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5; or

(ii) fiscal and legislative powers and duties of the county if the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5.

(3) The office of the board of county commissioners shall be

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placed on the primary election ballot for the county in the year of the second general election after the local public question is approved. The office of single county commissioner shall not be placed on the primary election ballot for the county in the year of the second general election after the local public question is approved.

(4) The office of the board of county commissioners shall be placed on the general election ballot for the county at the second general election after the local public question is approved and, except as provided in subdivision (6) to provide for staggered terms, every four (4) years thereafter. Beginning with the second general election after the local public question is approved, the county shall not elect a single county commissioner.

(5) On January 1 in the year following the year that the board of commissioners is elected under this chapter, the following occur:

(A) The office of single county commissioner is abolished, and the term of the single county commissioner expires.

(B) The county is not subject to IC 36-2-2.5 and IC 36-2-3.7.

(C) The county executive is the board of county commissioners elected under IC 36-2-2. The board of county commissioners has all powers that are executive or administrative in nature.

(D) If the county was not subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5:

(i) the county legislative body is the board of county commissioners; and

(ii) all powers that are legislative in nature are transferred from the county fiscal body to the board of county commissioners.

(E) If the county was subject to IC 36-2-3.5 before the county's government was reorganized under IC 36-2-2.5, the county legislative body is the county council.

(F) The county council is the county fiscal body.

(G) All property, assets, funds, equipment, records, rights, contracts, obligations, and liabilities of the single county commissioner are transferred to or assumed by the board of county commissioners.

(6) Notwithstanding IC 36-2-2-3, to provide for staggered terms of the members of the board of county commissioners

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elected after the structure and functions of the county are reorganized under this chapter, the county council shall, before the primary election described in subdivision (3), adopt an ordinance specifying which of the three (3) board of county commissioners districts shall elect a member of the board of county commissioners who serves an initial term of two (2) years rather than four (4) years.

(7) The abolishment of the office of the single county commissioner on January 1 following the year in which the board of county commissioners is elected does not invalidate:

(A) any resolutions, fees, schedules, or other actions adopted or taken by the single county commissioner before the office is abolished; or

(B) any appointments made by the single county commissioner before the office is abolished.

(8) This subdivision does not apply to a county described in IC 36-2-3-4.1(b). Effective with the second general election after the local public question is approved, the county council shall be elected with four (4) single-member county council districts and three (3) at-large members under IC 36-2-3-4. The county council shall divide the county into the four (4) contiguous single-member county council districts under IC 36-2-3-4. The terms of all county council members serving at the time of the second general election after the local public question is approved expire January 1 following the election. Notwithstanding any other law, to provide for staggered terms of the members of the county council, the county council may, before the primary election preceding the general election at which county council members will be elected as provided in this subdivision, adopt an ordinance specifying which of the seven (7) members of the county council shall serve an initial term of two (2) years rather than four (4) years.

SECTION 20. IC 36-2-3-4, AS AMENDED BY P.L.119-2012, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

Except as provided in section 4.1 of this chapter, the county

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executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; ~~and~~

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2; **and**

(3) during the year before county council members will be elected under IC 36-2-2.7-6(8).

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 21. IC 36-2-3-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: **Sec. 4.1. (a) Except as provided in subsection (b), this chapter applies to each county:**

(1) that does not have a consolidated city; and

(2) in which a local public question under IC 36-2-2.4 making the county executive a single county commissioner has been approved by the voters of the county.

(b) This section does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(c) Effective for the second general election after the local public question under IC 36-2-2.4 is approved, the county fiscal body shall by ordinance divide the county into seven (7) contiguous, single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of the seven (7) districts.

(d) Single-member districts established under subsection (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population;

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section;

(5) consider how communities of interest within the county can best be represented; and

(6) draw the districts to provide at least one (1) representative to each distinct community of interest to the extent practicable and not inconsistent with other applicable law.

(e) A division under subsection (c) shall be made:

(1) effective for the second general election after the local public question under IC 36-2-2.4 is approved; and

(2) whenever the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) After a division is initially made under subsection (c), another division may be made in any odd-numbered year not described in subsection (e).

SECTION 22. IC 36-2-3.5-1, AS AMENDED BY P.L.119-2012, SECTION 183, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to:

(1) a county having a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); and

(2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

(b) Except as provided in section 6(c) of this chapter, this chapter does not apply to a county during any period in which a single county commissioner elected under IC 36-2-2.5 is holding office.

SECTION 23. IC 36-2-3.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A court may issue an order, before final hearing, to stay an election if there is sufficient evidence to withstand a motion for summary judgment that the county has not been divided into districts that comply with IC 36-2-2-4 or IC 36-2-3-4. A preliminary hearing on the question may be held upon the court's own motion.

(b) Final judgment on the merits in such a case shall be made within thirty (30) days of the stay of election order. If the redistricting is found not to be in compliance with law, the court shall retain jurisdiction and shall order the proper officials to submit within thirty (30) days a redistricting plan complying with law. If the proper officials fail to comply with the order, the court shall order the Indiana election commission to divide the county into districts in compliance with law.

(c) If this chapter applied to a county at the time the first single county commissioner is elected under IC 36-2-2.5, this section continues to apply to the county after the election of the single county commissioner.

SECTION 24. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.7. County Council as the County Legislative Body

Sec. 1. Except as specifically provided by law, this chapter applies to each county:

(1) that does not have a consolidated city; and

(2) in which a local public question under IC 36-2-2.4 making the county executive a single county commissioner has been

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approved by the voters of the county.

Sec. 2. As used in this chapter, "single county commissioner" means the single county commissioner elected under IC 3-10-2-13.

Sec. 3. (a) In a county to which this chapter applies:

(1) the voters of the county shall continue to elect members of the county council;

(2) beginning on January 1 following the year in which the first single county commissioner is elected:

(A) the executive and legislative powers of the county are divided between separate branches of county government, and a power belonging to one (1) branch of county government may not be exercised by the other branch of county government;

(B) the county council is the county legislative body as well as the county fiscal body; and

(C) the single county commissioner is the county executive of the county and has the executive and administrative powers and duties of the county as provided in IC 36-2-2.5; and

(3) except as provided in IC 36-2-3-4.1(b), the county council shall divide the county into seven (7) single-member county council districts.

(b) This subsection does not apply to a county described in IC 36-2-3-4.1(b). The following apply in a county to which this chapter applies:

(1) Seven (7) county council members shall be elected at the second general election after the local public question under IC 36-2-2.4 is approved.

(2) The terms of all county council members serving at the time of the second general election after the local public question under IC 36-2-2.4 is approved expire January 1 following the election.

(3) Notwithstanding any other law, to provide for staggered terms of the members of the county council, the county council may, before the primary election preceding the general election described in subdivision (1), adopt an ordinance specifying which of the seven (7) members of the county council shall serve an initial term of two (2) years rather than four (4) years.

Sec. 4. (a) All powers and duties of the county that are legislative in nature, including any power of appointment related to legislative functions, shall be exercised or performed by the county council

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functioning as the county legislative body.

(b) The county council has the same legislative powers and duties that the board of county commissioners in the county had before the board of county commissioners was abolished.

(c) For purposes of a county subject to this chapter, after December 31 of the year in which the first single county commissioner is elected, any reference in:

(1) the Indiana Code;

(2) the Indiana Administrative Code;

(3) an ordinance or resolution; or

(4) any deed, lease, contract, or other official document or instrument;

to the board of commissioners pertaining to the legislative powers of a county shall be considered a reference to the county council of the county.

(d) For purposes of a county subject to this chapter, after December 31 of the year in which the first single county commissioner is elected, any reference in:

(1) the Indiana Code;

(2) the Indiana Administrative Code;

(3) an ordinance or resolution; or

(4) any deed, lease, contract, or other official document or instrument;

related to the legislative powers and duties of the board of county commissioners shall be considered a reference to the powers and duties of the county council of the county.

Sec. 5. The county council may do any of the following:

(1) Establish committees that are necessary to carry out the county council's functions.

(2) Employ legal and administrative personnel necessary to carry out the county council's functions.

(3) Pass all ordinances, orders, resolutions, and motions for the government of the county, in the manner prescribed by IC 36-2-4.

(4) Receive gifts, bequests, and grants from public or private sources.

(5) Conduct investigations into the conduct of county business for the purpose of correcting deficiencies and ensuring adherence to law and county ordinances and policies.

(6) Establish, by ordinance, new county departments, divisions, or agencies whenever necessary to promote efficient county government.

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SECTION 25. IC 36-2-4-8, AS AMENDED BY P.L.159-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to **IC 36-2-2.5 or** IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(1) the county executive proclaims the urgent necessity; and

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) The following apply in addition to the other requirements of this section:

(1) An ordinance or resolution passed by the legislative body of a county subject to **IC 36-2-2.5 or** IC 36-2-3.5 is considered adopted only if it is:

(A) approved by signature of a majority of the county executive **(in the case of a county subject to IC 36-2-3.5) or by signature of the single county commissioner (in the case of a county subject to IC 36-2-2.5);**

(B) neither approved nor vetoed by a majority of the executive **(in the case of a county subject to IC 36-2-3.5) or by the single county commissioner (in the case of a county subject to IC 36-2-2.5),** within ten (10) days after passage by the legislative body; or

(C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(2) Subject to subsection (g), the legislative body of a county shall:

(A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

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(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to **IC 36-2-2.5 or** IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive **(in the case of a county subject to IC 36-2-3.5) or by signature of the single county commissioner (in the case of a county subject to IC 36-2-2.5),** and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section (other than subsection (c)(2)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(g) The notice requirements of subsection (c)(2) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (c)(2) as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

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SECTION 26. IC 36-5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section does not apply to a town described by IC 36-5-1-11.5.

(b) A town subject to this chapter may be dissolved if the county election board of the county in which the greatest percentage of population of the town is located conducts a public hearing and finds that the town has not elected town officers or had a functioning town government during the preceding ten (10) years.

(c) The county election board shall certify the board's findings to the county executive, who may adopt an ordinance or (in a county subject to **IC 36-2-2.5 or** IC 36-2-3.5) issue an order to dissolve the town.

SECTION 27. IC 36-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their respective eligible entities:

(1) Board of commissioners, for a county not subject to **IC 36-2-2.5,** IC 36-2-3.5, or IC 36-3-1.

(2) County council, for a county subject to **IC 36-2-2.5 or** IC 36-2-3.5.

(3) City-county council, for a consolidated city or county having a consolidated city.

(4) Common council, for a city other than a consolidated city.

(5) Town council, for a town.

(6) Trustee and township board, for a civil or school township.

(7) Board of school trustees, board of school commissioners, or school board, for a school corporation.

(8) Board of trustees, for a health and hospital corporation.

SECTION 28. IC 36-9-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except in a county having a consolidated city **or as provided in subsection (d),** the drainage board consists of either:

(1) the county executive; or

(2) three (3) or five (5) persons, at least one (1) of whom must be a member of the executive, appointed by the executive;

at the option of the executive. Appointees under subdivision (2) must be resident freeholders of the county who are knowledgeable in drainage matters. Freeholders appointed to the board serve for terms of three (3) years, with their initial appointments made so as to provide for staggering of terms on an annual basis. In addition, the county surveyor serves on the board as an ex officio, nonvoting member.

(b) In a county having a consolidated city, the board of public works of the consolidated city comprises the drainage board, subject to

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IC 36-3-4-23.

(c) In a county having a consolidated city, the department of public works of the consolidated city has all the powers, duties, and responsibilities of the county surveyor under this chapter, subject to IC 36-3-4-23.

(d) The following apply in a county that is subject to IC 36-2-2.5:

(1) The drainage board consists of:

(A) the single county commissioner; and

(B) two (2) or four (4) persons (as determined by the county council) who are appointed by the county council. A member appointed under this clause may be a member of the county council.

(2) Appointees under subdivision (1)(B) must be resident freeholders of the county who are knowledgeable in drainage matters.

(3) The freeholders appointed to the drainage board serve for terms of three (3) years, with the freeholders' initial appointments made so as to provide for staggering of terms on an annual basis.

(4) The county surveyor serves on the drainage board as an ex officio, nonvoting member.

(5) The terms of members serving on the drainage board at the time the first single county commissioner is elected under IC 36-2-2.5 expire on January 1 of the year following that election, and the county council shall make the appointments to the board as provided in this subsection.

SECTION 29. **An emergency is declared for this act.**

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