



Reprinted
February 22, 2013

SENATE BILL No. 459

DIGEST OF SB 459 (Updated February 21, 2013 2:12 pm - DI 73)

Citations Affected: IC 6-1.1; IC 36-1.5.

Synopsis: Local government reorganization. Specifies that the following apply in the case of a reorganization that includes a township and another political subdivision: (1) The rate-controlled property taxes imposed by the reorganized political subdivision for a township cumulative firefighting building and equipment fund remain outside of the property tax levy limits. (2) If the township borrowed money from a township fund to pay the operating expenses of the township fire department or a volunteer fire department before the reorganization, the reorganized political subdivision may repay the loan in installments during the following five years. (3) The reorganized political subdivision continues to be responsible after the reorganization for providing township services in all areas of the township, including within the territory of a municipality in the township that does not participate in the reorganization. (4) If all or part of a municipality in the township is not participating in the reorganization, then ten township taxpayers who reside within territory that is not participating in the reorganization may file a petition remonstrating against the reorganized political subdivision's township assistance levy. Specifies the new maximum property tax levy for such a reorganized political subdivision's firefighting fund that applies after a reorganization, and provides that the reorganized political subdivision may not borrow money under the statutes in current law that authorize certain township emergency loans.

Effective: Upon passage.

Miller Pete

January 10, 2013, read first time and referred to Committee on Local Government.
January 31, 2013, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.
February 12, 2013, reported favorably — Do Pass.
February 21, 2013, read second time, amended, ordered engrossed.

SB 459—LS 7216/DI 73+



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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. 459

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

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

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

SB 459—LS 7216/DI 73+



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

6 notwithstanding section 9.8 of this chapter.

7 SECTION 2. IC 36-1.5-4-40.5 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: **Sec. 40.5. The following apply in**
10 **the case of a reorganization under this article that includes a**
11 **township and another political subdivision:**

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

- 16 **(A) the reorganized political subdivision is not required to**
17 **repay the entire loan during the following year; and**
- 18 **(B) the reorganized political subdivision may repay the**
19 **loan in installments during the following five (5) years.**

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

- 21 **(A) the reorganized political subdivision continues to be**
22 **responsible after the reorganization for providing**
23 **township services in all areas of the township, including**
24 **within the territory of a municipality in the township that**
25 **does not participate in the reorganization; and**
- 26 **(B) the reorganized political subdivision retains the powers**
27 **of a township after the reorganization in order to provide**
28 **township services as required by clause (A).**

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

33 **(4) If all or part of a municipality in the township is not**
34 **participating in the reorganization, not less than ten (10)**
35 **township taxpayers who reside within territory that is not**
36 **participating in the reorganization may file a petition with the**
37 **county auditor protesting the reorganized political**
38 **subdivision's township assistance levy. The petition must be**
39 **filed not more than thirty (30) days after the reorganized**
40 **political subdivision finally adopts the reorganized political**
41 **subdivision's township assistance levy. The petition must state**
42 **the taxpayers' objections and the reasons why the taxpayers**

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1 believe the reorganized political subdivision's township
 2 assistance levy is excessive or unnecessary. The county
 3 auditor shall immediately certify a copy of the petition,
 4 together with other data necessary to present the questions
 5 involved, to the department of local government finance.
 6 Upon receipt of the certified petition and other data, the
 7 department of local government finance shall fix a time and
 8 place for the hearing of the matter. The hearing shall be held
 9 not less than five (5) days and not more than thirty (30) days
 10 after the receipt of the certified documents. The hearing shall
 11 be held in the county where the petition arose. Notice of the
 12 hearing shall be given by the department of local government
 13 finance to the reorganized political subdivision and to the first
 14 ten (10) taxpayer petitioners listed on the petition by letter.
 15 The letter shall be sent to the first ten (10) taxpayer
 16 petitioners at the taxpayer's usual place of residence at least
 17 five (5) days before the date of the hearing. After the hearing,
 18 the department of local government finance may reduce the
 19 reorganized political subdivision's township assistance levy to
 20 the extent that levy is excessive or unnecessary. A taxpayer
 21 who signed a petition under this subdivision or a reorganized
 22 political subdivision against which a petition under this
 23 subdivision is filed may petition for judicial review of the final
 24 determination of the department of local government finance
 25 under this subdivision. The petition must be filed in the tax
 26 court not more than forty-five (45) days after the date of the
 27 department of local government finance's final determination.
 28 (5) Section 40 of this chapter applies to the debt service levy
 29 of the reorganized political subdivision and to the department
 30 of local government finance's determination of the new
 31 maximum permissible ad valorem property tax levy for the
 32 reorganized political subdivision.
 33 (6) The reorganized political subdivision may not borrow
 34 money under IC 36-6-6-14(b) or IC 36-6-6-14(c).
 35 (7) The new maximum permissible ad valorem property tax
 36 levy for the reorganized political subdivision's firefighting
 37 fund under IC 36-8-13-4 is equal to:
 38 (A) the result of:
 39 (i) the maximum permissible ad valorem property tax
 40 levy for the township's firefighting fund under
 41 IC 36-8-13-4 in the year preceding the year in which the
 42 reorganization is effective; multiplied by

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1 (ii) the assessed value growth quotient applicable for
2 property taxes first due and payable in the year in which
3 the reorganization is effective; plus
4 (B) any amounts borrowed by the township under
5 36-6-6-14(b) or IC 36-6-6-14(c) in the year preceding the
6 year in which the reorganization is effective.
7 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

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

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

HEAD, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

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

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

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 3.

SENATE MOTION

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

Page 2, delete lines 7 through 42.

Delete page 3.

Page 4, delete lines 1 through 18.

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

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

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

(B) the reorganized political subdivision retains the powers



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

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

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

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

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

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

(A) the result of:

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

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

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

Renumber all SECTIONS consecutively.

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

MILLER PETE

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