

## **IC 36-1.5-4**

### **Chapter 4. Reorganization by Referendum**

#### **IC 36-1.5-4-1**

##### **Types of reorganizations authorized; political subdivisions not participating in reorganization**

Sec. 1. (a) Any of the following may reorganize under this chapter:

(1) Two (2) or more counties. A county reorganizing under this subdivision must be adjacent to at least one (1) other county participating in the reorganization.

(2) Two (2) or more townships located entirely within the same county. A township reorganizing under this subdivision must be adjacent to at least one (1) other township participating in the reorganization.

(3) Two (2) or more municipalities. A municipality reorganizing under this subdivision must be adjacent to at least one (1) other municipality participating in the reorganization.

(4) Two (2) or more school corporations. A school corporation reorganizing under this subdivision must be adjacent to at least one (1) other school corporation participating in the reorganization.

(5) Two (2) or more municipal corporations, other than a unit or a school corporation, that have substantially equivalent powers. A municipal corporation reorganizing under this subdivision must be adjacent to at least one (1) other municipal corporation participating in the reorganization.

(6) Two (2) or more special taxing districts that are adjacent to at least one (1) other special taxing district participating in the reorganization.

(7) A township and a municipality that is located in any part of the same township.

(8) A county and one (1) or more townships that are located in the county.

(9) A municipality and a county that does not contain a consolidated city.

(10) A school corporation and a county or municipality in which a majority of the students of the school corporation have legal settlement (as defined by IC 20-18-2-11).

(11) A municipal corporation, other than a unit or a school corporation, and a county or municipality in which a majority of the population of the municipal corporation resides.

(b) If a political subdivision reorganizes under this article with one (1) or more other political subdivisions:

(1) any political subdivisions that did not participate in the public question on the reorganization are not reorganized under this article;

(2) the reorganization affects only those political subdivisions

in which the reorganization is approved as specified in this article; and

(3) the reorganization does not affect the rights, powers, and duties of any political subdivisions in the county in which the reorganization is not approved as specified in this article.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-2**

##### **Adjacent political subdivisions**

Sec. 2. For purposes of this chapter, two (2) political subdivisions may not be treated as adjacent if the political subdivisions are connected by a strip of land that is less than one hundred fifty (150) feet wide.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-3**

##### **Types of reorganization**

Sec. 3. Political subdivisions described in section 1 of this chapter may participate under this chapter in any of the following types of reorganization:

- (1) Consolidation of the participating political subdivisions into a single new political subdivision.
- (2) Consolidation of the participating political subdivisions into one (1) of the participating political subdivisions.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-4**

##### **Powers of political subdivisions in an approved reorganization**

Sec. 4. As part of a reorganization in a finally approved plan of reorganization, one (1) or more of the reorganizing political subdivisions or the reorganized political subdivision may do the following:

- (1) Adjust any of its boundaries.
- (2) Establish a joint service area with another political subdivision.
- (3) Transfer the functions of an office to another office.
- (4) Provide for a legislative body, an executive, or a fiscal body of the reorganized political subdivision to exercise the powers of a legislative body, an executive, or a fiscal body of a reorganizing political subdivision.
- (5) Change the name of the political subdivision or select a new name.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-5**

##### **Effective date of reorganization**

Sec. 5. (a) Except as provided in subsection (b), a reorganization approved under this chapter takes effect when all of the following

have occurred:

(1) The later of:

(A) the date that a copy of a joint certification from the county election board in each county in which reorganizing political subdivisions are located that indicates that:

(i) the reorganization has been approved by the voters of each reorganizing political subdivision; or

(ii) in the case of a reorganization described in section 1(a)(7) or 1(a)(9) of this chapter, the reorganization has been approved as set forth in section 32(b) or 32(c) of this chapter;

is recorded as required by section 31 of this chapter; or

(B) the date specified in the finally adopted plan of reorganization.

(2) The appointed or elected officers of the reorganized political subdivision are elected (as prescribed by section 36 of this chapter) or appointed and qualified, if:

(A) the reorganized political subdivision is a new political subdivision and reorganizing political subdivisions are not being consolidated into one (1) of the reorganizing political subdivisions;

(B) the reorganized political subdivision will have different boundaries than any of the reorganizing political subdivisions;

(C) the reorganized political subdivision will have different appointment or election districts than any of the reorganizing political subdivisions; or

(D) the finally adopted plan of reorganization requires new appointed or elected officers before the reorganization becomes effective.

(b) A reorganization approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A consolidation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

*As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.109; P.L.202-2013, SEC.2; P.L.233-2015, SEC.334.*

#### **IC 36-1.5-4-6**

##### **Results of reorganization**

Sec. 6. When a reorganization under this chapter is effective:

(1) all of the participating political subdivisions, except the reorganized political subdivision, cease to exist;

(2) unless the plan of reorganization provides for the continuation of the term of office, the term of each of the elected offices of each of the reorganizing political subdivisions is terminated;

- (3) if the plan of reorganization transfers the responsibilities of any office to another office, the office from which the responsibilities were transferred is abolished;
- (4) the executives, legislative bodies, and fiscal bodies of the reorganizing political subdivisions (other than any reorganizing political subdivision that is treated under the plan of reorganization as the successor reorganized political subdivision) are abolished, and the responsibilities of the executives, legislative bodies, and fiscal bodies are transferred to the executive, legislative body, and fiscal body of the reorganized political subdivision; and
- (5) the property and liabilities of the reorganizing political subdivisions become the property and liabilities of the reorganized political subdivision, subject to section 40 of this chapter.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-7**

#### **Budgets, tax rates, and tax levies; deadline for certification; election districts**

Sec. 7. (a) In the year before the year in which the participating political subdivisions are reorganized under this chapter:

- (1) subject to subsection (b), the fiscal bodies of the reorganizing political subdivisions shall, in the manner provided by IC 6-1.1-17, adopt tax levies, tax rates, and a budget for the reorganized political subdivision either through the adoption of substantially identical resolutions adopted by each of the fiscal bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the fiscal bodies on which the members of each of the fiscal bodies are represented; and
- (2) if the reorganized political subdivision will have elected offices and different election districts than any of the reorganizing political subdivisions, the legislative bodies of the reorganizing political subdivisions shall establish the election districts either through the adoption of substantially identical resolutions adopted by each of the legislative bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the legislative bodies on which the members of each of the legislative bodies are represented.

(b) This subsection applies to two (2) or more school corporations that participate in a reorganization in which the voters approve a plan of reorganization in a general election and the plan of reorganization provides for the reorganization to become effective for property taxes first due and payable in the immediately following calendar year. The participating school corporations may publish notices, hold public hearings, and take final action for the adoption of property tax

levies, property tax rates, and a budget for the reorganized school corporation after the voters approve the plan of reorganization. The alternative schedule must comply with the following:

(1) Each participating school corporation shall give notice by publication to taxpayers of:

- (A) the estimated budget;
- (B) the estimated maximum permissible levy;
- (C) the current and proposed tax levies of each fund; and
- (D) the amounts of excessive levy appeals to be requested;

for the ensuing year. The notice must be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing and with the last publication not later than November 24 of the year the public question is approved by the voters.

(2) Each participating school corporation must conduct a public hearing on the proposed tax levies, tax rates, and budget at least ten (10) days before the date the participating school corporation adopts the proposed tax levies, tax rates, and budget.

(3) The governing body of each participating school corporation must meet to fix the tax levies, tax rates, and budget for the ensuing year before December 6 of the year the public question is approved by the voters.

(4) The county auditor shall certify the adopted property tax levies, property tax rates, and budget for the reorganized school corporation to the department of local government finance before December 8 in the year in which the public question is approved by the voters.

Subject to subsection (c), the department of local government finance may adjust any other applicable time limit specified in IC 6-1.1-17 to be consistent with this section.

(c) The department of local government finance is expressly directed to complete the duties assigned to it under IC 6-1.1-17-16 with respect to the submitted property tax levies, property tax rates, and budget as follows:

(1) For each budget year before 2019, not later than February 15 of that budget year.

(2) For each budget year after 2018, not later than December 31 of the year preceding that budget year, unless a taxing unit in a county is issuing debt after December 1 in the year preceding the budget year or intends to file a shortfall appeal under IC 6-1.1-18.5-16.

(3) For each budget year after 2018, not later than January 15 of the budget year if a taxing unit in a county is issuing debt after December 1 in the year preceding the budget year or intends to file a shortfall appeal under IC 6-1.1-18.5-16.

(d) If a school is converted into a charter school under IC 20-24-11, the charter school must, before December 1 of each

year, publish its estimated annual budget for the ensuing year in accordance with IC 5-3-1.

*As added by P.L.186-2006, SEC.4. Amended by P.L.26-2012, SEC.1; P.L.184-2016, SEC.28.*

#### **IC 36-1.5-4-8**

##### **Authority of department of local government finance to prescribe forms**

Sec. 8. The department of local government finance may prescribe forms for petitions, resolutions, certifications, and other writings required under this chapter. A petition, resolution, certification, or other writing related to a reorganization must be substantially in the form prescribed by the department of local government finance.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-9**

##### **Initiation of reorganization**

Sec. 9. A reorganization may be initiated by:

- (1) adopting a resolution under section 10 of this chapter; or
- (2) filing a petition under section 11 of this chapter.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-10**

##### **Initiation of reorganization by legislative body**

Sec. 10. (a) The legislative body of a political subdivision may initiate a proposed reorganization under this chapter by adopting a resolution that:

- (1) proposes a reorganization; and
- (2) names the political subdivisions that would be reorganized in the proposed reorganization.

(b) The clerk of the political subdivision adopting the resolution shall certify the resolution to the clerk of each political subdivision named in the resolution.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.3.*

#### **IC 36-1.5-4-11**

##### **Initiation of reorganization by voters**

Sec. 11. (a) The voters of a political subdivision may initiate a proposed reorganization by filing a written petition, substantially in the form prescribed by the department, with the clerk of the political subdivision that:

- (1) proposes a reorganization;
- (2) names the political subdivisions that would be reorganized in the proposed reorganization; and
- (3) for a petition filed after December 31, 2013, contains all of the following:

- (A) The signature of each petitioner.

- (B) The name of each petitioner legibly printed.
- (C) The residence mailing address of each petitioner.
- (D) The date on which each petitioner signed the petition.

(b) The clerk shall transmit the petition to the county voter registration office of the county in which a majority of the population of the political subdivision is located. If the county voter registration office determines that the written petition is signed by at least five percent (5%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election, the clerk of the political subdivision shall certify the petition to the legislative body of the political subdivision. In certifying the number of voters, the clerk shall disregard any signature on the petition that is dated under subsection (a)(3)(D) more than ninety (90) days before the date the petition was filed with the clerk.

*As added by P.L.186-2006, SEC.4. Amended by P.L.194-2013, SEC.101; P.L.219-2013, SEC.94.*

#### **IC 36-1.5-4-12**

##### **Action by legislative body on proposed reorganization; hearing**

Sec. 12. (a) If a petition is certified to the legislative body of a political subdivision under section 11 of this chapter, the legislative body shall conduct a public hearing on the proposed reorganization not sooner than five (5) days after publishing a notice of the public hearing under IC 5-3-1. Not more than thirty (30) days after the conclusion of the public hearing the legislative body shall adopt a resolution, substantially in the form prescribed by the department of local government finance, to do any of the following:

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

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

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.5.*

#### **IC 36-1.5-4-13**

##### **Action by legislative body receiving resolution on proposed reorganization from another political subdivision; hearing**

Sec. 13. (a) The legislative body of a political subdivision that receives a certified resolution under section 10 or 12 of this chapter may do any of the following:

- (1) Adopt a resolution declining to participate in a proposed

reorganization.

(2) Adopt a substantially identical resolution proposing to participate in a proposed reorganization with the political subdivisions named in a resolution certified to the political subdivision.

(3) Adopt a resolution proposing to participate in a proposed reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in a resolution certified to the political subdivision.

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

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.6.*

#### **IC 36-1.5-4-14**

##### **Revision of resolutions**

Sec. 14. The legislative body of a political subdivision may revise a resolution certified under section 10, 12, or 13 of this chapter by adding or deleting proposed parties to the reorganization until all of the political subdivisions named in the resolution have adopted substantially identical reorganization resolutions.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-15**

##### **Repealed**

*(As added by P.L.186-2006, SEC.4. Repealed by P.L.202-2013, SEC.7.)*

#### **IC 36-1.5-4-16**

##### **Repealed**

*(As added by P.L.186-2006, SEC.4. Repealed by P.L.202-2013, SEC.8.)*

#### **IC 36-1.5-4-17**

##### **Repealed**

*(As added by P.L.186-2006, SEC.4. Repealed by P.L.202-2013, SEC.9.)*

#### **IC 36-1.5-4-18**

##### **Preparation of reorganization plan; required elements**

Sec. 18. (a) A reorganization committee (before January 1, 2014) or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) shall prepare a comprehensive plan of reorganization for the reorganizing political subdivisions. The plan of reorganization governs the actions, duties, and powers of the reorganized political subdivision that are not specified by law.



- (b) The plan of reorganization must include at least the following:
- (1) The name and a description of the reorganized political subdivision that will succeed the reorganizing political subdivisions.
  - (2) A description of the boundaries of the reorganized political subdivision.
  - (3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.
  - (4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.
  - (5) A description of the services to be offered by the reorganized political subdivision and the service areas in which the services will be offered.
  - (6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.
  - (7) Any other matter that the:
    - (A) reorganization committee (before January 1, 2014) determines or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) determine to be necessary or appropriate; or
    - (B) legislative bodies of the reorganizing political subdivisions require the reorganization committee (before January 1, 2014);to include in the plan of reorganization.
  - (8) This subdivision applies only to a reorganization described in section 1(a)(7) of this chapter that is voted on by voters after December 31, 2013, regardless of when the plan of reorganization is adopted. The reorganization committee (before January 1, 2014) or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) shall include in the reorganization plan an approval threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The approval threshold must be the same for each municipality that is a party to the proposed reorganization and to each township that is a party to the proposed reorganization. The approval threshold must be greater than fifty percent (50%), but not more than fifty-five percent (55%).
  - (9) This subdivision applies only to a reorganization described in section 1(a)(7) of this chapter that is voted on by voters after

December 31, 2013, regardless of when the plan of reorganization is adopted. The reorganization committee (before January 1, 2014) or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) shall determine and include in the reorganization plan the percentage of voters in both the municipality and the township voting on the public question regarding the proposed reorganization who must vote in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "municipality-township vote approval percentage". The municipality-township vote approval percentage must be greater than fifty percent (50%).

(10) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee (before January 1, 2014) or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) shall include in the reorganization plan an approval threshold, specified as a percentage, that applies for purposes of section 32(c) of this chapter. The approval threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization. The approval threshold must be greater than fifty percent (50%), but not more than fifty-five percent (55%).

(11) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee (before January 1, 2014) or the legislative bodies of the reorganizing political subdivisions (after December 31, 2013) shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(12) The fiscal impact analysis required by subsection (d).

(c) In the case of a plan of reorganization submitted to a political subdivision by a reorganization committee after June 30, 2010, and before January 1, 2014, or prepared by the legislative bodies of the reorganizing political subdivisions after December 31, 2013, the political subdivision shall post a copy of the plan of reorganization on an Internet web site maintained or authorized by the political subdivision not more than thirty (30) days after receiving the plan of reorganization from the reorganization committee (before January 1, 2014) or (after December 31, 2013) not more than thirty (30) days after the plan of reorganization is prepared by the legislative bodies of the reorganizing political subdivisions. If the plan of reorganization is amended, the political subdivision shall post the

amended plan on the Internet web site maintained or authorized by the political subdivision within seven (7) days after the amended plan is adopted.

(d) The legislative bodies of the reorganizing political subdivisions preparing a reorganization plan after December 31, 2013, must include in the plan of reorganization a fiscal impact analysis of the proposed reorganization. The fiscal impact analysis must include at least the following:

(1) The estimated effect of the proposed reorganization on taxpayers in each of the political subdivisions to which the proposed reorganization applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions.

(2) A description of the planned services to be provided in the reorganized political subdivision and the method or methods of financing the planned services. The fiscal impact analysis must:

(A) present itemized estimated costs for each department or agency of the reorganized political subdivision; and

(B) explain how specific and detailed expenses will be funded from taxes, fees, grants, and other funding.

(3) A description of the capital improvements to be provided in the reorganized political subdivision and the method or methods of financing those capital improvements.

(4) Any estimated effects on political subdivisions in the county that are not participating in the reorganization and on taxpayers located in those political subdivisions.

(e) The legislative bodies of the reorganizing political subdivisions preparing a plan of reorganization after December 31, 2013, must submit the fiscal impact analysis described in subsection (d) to the department of local government finance at least three (3) months before the election in which the public question will be on the ballot. A legislative body of a reorganizing political subdivision may not adopt a plan of reorganization unless the legislative bodies of the reorganizing political subdivisions have submitted the fiscal impact analysis to the department of local government finance as required by this subsection. The department of local government finance must do the following within a reasonable time, but not later than thirty (30) days before the date of the election in which the public question will be on the ballot:

(1) Review the fiscal impact analysis.

(2) Make any comments concerning the fiscal impact analysis that the department considers appropriate.

(3) Provide the department's comments under subdivision (2) to the legislative body of the reorganizing political subdivisions.

(4) Post the department's comments under subdivision (2) on the department's Internet web site.

The department of local government finance shall certify to the legislative bodies of the reorganizing political subdivisions the total

amount of expense incurred by the department in carrying out the department's review and preparing the department's comments. Upon receipt of the department's certification of the expenses, the reorganizing political subdivisions shall immediately pay to the treasurer of state the amount charged. The share of the cost to be paid by each reorganizing political subdivision shall be determined by the legislative bodies of the reorganizing political subdivisions. Money paid by a reorganizing political subdivision under this subsection shall be deposited in the state general fund.

*As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.110; P.L.202-2013, SEC.10; P.L.233-2015, SEC.335.*

#### **IC 36-1.5-4-19**

##### **Consideration of reorganization plan by legislative bodies**

Sec. 19. The legislative body of each of the reorganizing political subdivisions shall provide for the following:

- (1) Consideration of a plan of reorganization in the form of a resolution incorporating the plan of reorganization in full or by reference.
- (2) Reading of the resolution incorporating the plan of reorganization in at least two (2) separate meetings of the legislative body of the political subdivision.
- (3) Conducting a public hearing on the plan of reorganization:
  - (A) not sooner than five (5) days after notice of the public hearing is published under IC 5-3-1; and
  - (B) before the legislative body takes final action on the resolution to adopt the plan of reorganization.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.11.*

#### **IC 36-1.5-4-20**

##### **Actions by legislative bodies on reorganization plan**

Sec. 20. At a public hearing on a plan of reorganization conducted under section 19 of this chapter, or in a public meeting held not more than thirty (30) days after the public hearing concludes, a legislative body of a reorganizing political subdivision shall do one (1) of the following:

- (1) Adopt the plan of reorganization.
- (2) Adopt the plan of reorganization with modifications.
- (3) Reject the plan of reorganization.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.12.*

#### **IC 36-1.5-4-21**

##### **Modifications to reorganization plan**

Sec. 21. Any modifications in a plan of reorganization that are adopted by a legislative body of a reorganizing political subdivision must be adopted by the legislative body of each of the reorganizing

political subdivisions before the modifications are effective.  
*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-22**

##### **Action by legislative bodies on revised reorganization plan**

Sec. 22. The legislative body of each reorganizing political subdivision shall take any of the actions described in section 20 of this chapter on a revised plan of reorganization and each resolution modifying a plan of reorganization or revised plan of reorganization in the same manner as the legislative body may take action on the initially submitted plan of reorganization.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.13.*

#### **IC 36-1.5-4-23**

##### **Certification by legislative bodies of final action**

Sec. 23. The legislative body of a reorganizing political subdivision shall certify the legislative body's final action on a plan of reorganization or revised plan of reorganization, as modified by the legislative body, in the manner prescribed by the department of local government finance, to the following:

- (1) The clerk of each reorganizing political subdivision.
- (2) The county fiscal officer of each county in which a reorganizing political subdivision is located.
- (3) The county recorder of each county in which a reorganizing political subdivision is located.
- (4) The county voter registration office of each county in which a reorganizing political subdivision is located.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.14; P.L.216-2015, SEC.41.*

#### **IC 36-1.5-4-23.5**

##### **Failure to adopt reorganization plan; petition requesting a public question**

Sec. 23.5. This section does not apply to a final plan of reorganization that is adopted and rescinded by the legislative body of a political subdivision under section 27.5 of this chapter. If the legislative bodies of all political subdivisions that have been presented with (before January 1, 2014) an initial plan of reorganization prepared under section 18 of this chapter or that have prepared (after December 31, 2013) an initial plan of reorganization under section 18 of this chapter, have not adopted a final plan of reorganization within one (1) year after the initial plan of reorganization is presented, the registered voters of a political subdivision in which the initial plan of reorganization was presented to a legislative body (before January 1, 2014) or prepared by a legislative body (after December 31, 2013) but not adopted may submit a petition to the clerk of the circuit court approving a final

plan of reorganization and requesting that a public question be held on the final plan of reorganization. The petition must be submitted not later than one hundred eighty (180) days after the date that is one (1) year after the initial plan of reorganization was presented to the legislative body (before January 1, 2014) or prepared by the legislative body (after December 31, 2013). A petition submitted after December 31, 2013, must meet the requirements of section 11(a)(3) of this chapter. In certifying the number of voters, the clerk shall disregard any signature on the petition that is dated under section 11(a)(3)(D) of this chapter more than one hundred eighty (180) days before the date the petition was filed with the clerk. If the petition is signed by at least ten percent (10%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election:

- (1) the political subdivision is considered to have approved the holding of the public question on the final plan of reorganization, notwithstanding the vote by the legislative body rejecting the final plan of reorganization; and
- (2) the clerk of the circuit court shall certify approval of the final plan of the reorganization and the holding of the public question in the manner specified in section 23 of this chapter.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.15.*

#### **IC 36-1.5-4-24**

##### **Filing of reorganization plan**

Sec. 24. The legislative body of the reorganizing political subdivision with the largest population shall provide for a certified copy of the plan of reorganization to be filed with each of the following at the same time certifications are made under section 23 of this chapter:

- (1) The county recorder of each county in which a reorganizing political subdivision is located.
- (2) The department of local government finance.
- (3) If any of the reorganizing political subdivisions is a school corporation, the department of education.
- (4) If the plan of reorganization changes any election district or abolishes an elected office, the clerk of the circuit court in each county affected by the election district or elected office.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-25**

##### **Recording of certifications and reorganization plan by county recorder**

Sec. 25. Each county recorder receiving a certification under section 23 of this chapter, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political

subdivision, shall record the certification and the plan of reorganization in the records of the county recorder without charge. *As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-26**

##### **Notification of county election board upon receipt of certifications from all reorganizing political subdivisions**

Sec. 26. When a county recorder has received certifications under this chapter from all of the reorganizing political subdivisions, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision is located.

*As added by P.L.186-2006, SEC.4. Amended by P.L.194-2013, SEC.102.*

#### **IC 36-1.5-4-27**

##### **County election board preparing ballot language; submission of language to department of local government finance**

Sec. 27. After the county recorder of each county in which reorganizing political subdivisions are located has notified the county election board under section 26 of this chapter, the county election board shall prepare and submit ballot language to the department of local government finance.

*As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.111; P.L.194-2013, SEC.103.*

#### **IC 36-1.5-4-27.5**

##### **Certification of resolution to rescind plan of reorganization**

Sec. 27.5. (a) Before the public question on a reorganization under this chapter is placed on the ballot, the legislative body of a political subdivision may adopt a resolution to rescind the plan of reorganization previously adopted and certified by the legislative body. The resolution to rescind the plan of reorganization must be certified by the legislative body to the:

- (1) clerk of each reorganizing political subdivision;
- (2) county fiscal officer of each county in which a reorganizing political subdivision is located; and
- (3) county recorder of each county in which a reorganizing political subdivision is located;

not later than July 15.

(b) Each county recorder receiving a certification under subsection (a) shall do the following:

- (1) Record the certification in the records of the county recorder without charge.
- (2) Notify the county election board of each county in which a reorganizing political subdivision is located that the public

question on the plan of reorganization is not eligible to be placed on the ballot for consideration by:

- (A) the voters of each reorganizing political subdivision; and
- (B) in the case of a reorganization described in section 1(a)(9) of this chapter, the voters of the entire county.

(c) After the county recorder of each county in which the reorganizing political subdivisions are located has notified the county election board under subsection (b) that a public question on a plan of reorganization is not eligible to be placed on the ballot, the county election board shall not place the public question on the ballot.

*As added by P.L.202-2013, SEC.16.*

### **IC 36-1.5-4-28**

#### **Form of public question; approval by department of local government finance; certification of public question; placing public question on ballot**

Sec. 28. (a) A public question under this chapter shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

(Insert a brief description of the structure of the proposed reorganized political subdivision that will succeed the reorganizing political subdivisions.)

"Shall \_\_\_\_\_ (insert name of political subdivision) and \_\_\_\_\_ (insert name of political subdivision) reorganize as a single political subdivision?"

(b) The public question must appear on the ballot in the form approved by the county election board. A brief description of the reorganized political subdivision that will succeed the reorganizing political subdivisions, and the public question described in subsection (a), shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall submit the language to the department of local government finance for review.

(c) The department of local government finance shall review the language of the public question to evaluate whether the description of the reorganized political subdivision that will succeed the reorganizing political subdivisions is accurate and is not biased against either a vote in favor of the reorganization or a vote against the reorganization. The department of local government finance may:

- (1) approve the ballot language as submitted; or
- (2) modify the ballot language as necessary to ensure that the description of the reorganized political subdivision that will succeed the reorganizing political subdivisions is accurate and is not biased.

The department of local government finance shall certify its approval or recommendations to the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. If the department of local government finance



recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, submit modified ballot language to the department for the department's approval or recommendation of any additional modifications. The public question may not be certified under IC 3-10-9-3 unless the department of local government finance has first certified the department's final approval of the ballot language for the public question to the county recorder.

(d) When the county recorder receives final approval of the ballot language under this section, the county recorder shall immediately certify the public question to the county election board under IC 3-10-9-3 and file a notice of the certification with the county auditor. The county election board shall place the public question on the ballot in accordance with IC 3-10-9 at the next regularly scheduled general or municipal election that will occur in all of the precincts of the reorganizing political subdivisions.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.17; P.L.216-2015, SEC.42.*

#### **IC 36-1.5-4-29**

##### **Application of IC 3**

Sec. 29. IC 3 applies to the election at which a public question under this chapter is considered.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-30**

##### **Certification by circuit court clerk of results of public question**

Sec. 30. (a) Except as provided in subsections (b) and (c), at the same time that election results are certified under IC 3, the circuit court clerk of each of the counties in which a public question under this chapter is on the ballot shall jointly issue, in the form prescribed by the Indiana election commission, a certificate declaring whether the public question is approved or rejected by a majority of the voters voting on the public question in each of the reorganizing political subdivisions. In addition to any other requirements in IC 3 concerning filing of the certification, the certification shall be sent to each of the following:

- (1) The clerk of each of the reorganizing political subdivisions.
- (2) The county auditor of each county in which a reorganizing political subdivision is located.
- (3) The county recorder of each county in which a reorganizing political subdivision is located.
- (4) The state board of accounts.
- (5) The department of local government finance.
- (6) The department of state revenue.
- (7) The budget agency.
- (8) If any of the reorganizing political subdivisions is a school

corporation, the department of education.

(b) In the case of a public question on a reorganization described in section 1(a)(7) of this chapter that is voted on by voters after December 31, 2013:

(1) the public question on a plan of reorganization shall be placed on the ballot for consideration by the voters of the reorganizing municipality and township;

(2) the vote on the public question by the voters of a reorganizing municipality and township shall be tabulated by determining the sum of the votes of voters who reside in:

(A) each reorganizing municipality;

(B) the reorganizing township and not the reorganizing municipality; and

(C) each reorganizing municipality and the reorganizing township;

(3) the vote on the public question by the voters of:

(A) each reorganizing municipality; and

(B) each reorganizing township (excluding the voters of the reorganizing municipalities);

shall be tabulated separately; and

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

(A) each reorganizing municipality and township as set forth in subdivision (2)(C);

(B) each reorganizing municipality; and

(C) each reorganizing township, excluding the voters of the reorganizing municipalities;

voting on the public question.

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

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

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

(3) the vote on the public question by the voters of:

(A) each reorganizing municipality; and

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

shall be tabulated separately; and

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

(A) the entire county;

(B) each reorganizing municipality; and

(C) the county, excluding the voters of the reorganizing

municipalities;  
voting on the public question.  
*As added by P.L.186-2006, SEC.4. Amended by P.L.194-2013,  
SEC.104; P.L.219-2013, SEC.96.*

#### **IC 36-1.5-4-31**

##### **Recording of certification from circuit court clerk**

Sec. 31. Each county recorder receiving a certification from a circuit court clerk under section 30 of this chapter shall file the certification without charge with the plan of reorganization recorded under section 25 of this chapter.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-32**

##### **Approval of public question**

Sec. 32. (a) This subsection does not apply to a reorganization described in section 1(a)(7) or 1(a)(9) of this chapter. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision voting on the public question approve the public question on the reorganization. If a reorganizing political subdivision includes the territory of another reorganizing political subdivision, the vote of voters of a reorganizing political subdivision who also are voters in a second reorganizing political subdivision that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside.

(b) This subsection applies only to a reorganization described in section 1(a)(7) of this chapter. This subsection applies only to a reorganization voted on by voters after December 31, 2013. In the case of a proposed reorganization between a municipality and a township, the reorganization is approved only if:

(1) the percentage of all voters voting on the public question who:

(A) reside in:

- (i) the reorganizing municipality;
- (ii) the reorganizing township and not the reorganizing municipality; and
- (iii) both the reorganizing municipality and the reorganizing township; and

(B) vote in favor of the proposed reorganization;  
is greater than fifty percent (50%);

(2) the percentage of voters of the reorganizing municipality voting on the public question in favor of the reorganization equals or exceeds the approval threshold included in the final reorganization plan, which must be greater than fifty percent (50%) but not more than fifty-five percent (55%); and

(3) the percentage of voters who reside within the reorganizing township but do not reside within the reorganizing municipality and who vote on the public question in favor of the reorganization equals or exceeds the approval threshold included in the final reorganization plan, which must be greater than fifty percent (50%) but not more than fifty-five percent (55%).

If the reorganization is not approved, the reorganization is terminated. In tabulating the votes under subdivisions (2) and (3), the vote of voters of a reorganizing municipality who are also voters in the reorganizing township shall be included only in the tally of votes for the municipality in which the voters reside.

(c) The following apply only to a reorganization described in section 1(a)(9) of this chapter:

(1) In the case of a public question voted on by voters before January 1, 2014, the reorganization is approved only if:

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

(B) the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with an approval threshold, and the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than the approval threshold included in the final reorganization plan; and

(C) the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with an approval threshold, and the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the approval threshold included in the final reorganization plan.

(2) In the case of a public question voted on by voters after December 31, 2013, the reorganization is approved only if all of the following requirements are met:

(A) More than fifty percent (50%) of the voters in the county voting on the public question vote (on a countywide basis) in favor of the proposed reorganization.

(B) The percentage of voters of the reorganizing county (excluding the voters of the reorganizing municipalities) voting on the public question in favor of the reorganization equals or exceeds the approval threshold included in the final reorganization plan. The approval threshold must be greater than fifty percent (50%) but not more than fifty-five

percent (55%).

(C) The percentage of voters of each reorganizing municipality voting on the public question in favor of the reorganization equals or exceeds the approval threshold included in the final reorganization plan. The approval threshold must be greater than fifty percent (50%) but not more than fifty-five percent (55%).

If the reorganization is not approved, the reorganization is terminated. In tabulating the votes under subsection (c)(1)(B), (c)(1)(C), (c)(2)(B), and (c)(2)(C), the vote of voters of a reorganizing municipality who also are voters in the county shall be included only in the tally of votes for the municipality in which the voters reside.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.19.*

#### **IC 36-1.5-4-33**

##### **Termination of reorganization if public question not approved**

Sec. 33. Except in the case of a reorganization described in section 1(a)(7) or 1(a)(9) of this chapter, if a reorganization is not approved by the majority of the voters in each reorganizing political subdivision voting on the public question, the reorganization is terminated. A political subdivision in which voters of the political subdivision approved the reorganization may continue with a reorganization with another political subdivision in which the reorganization was approved only if a new plan of reorganization is approved by the voters of each political subdivision in the manner provided by this chapter.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.20.*

#### **IC 36-1.5-4-34**

##### **Reorganization according to reorganization plan if public question approved**

Sec. 34. (a) This section applies if:

(1) in the case of a reorganization that is not described in section 1(a)(7) or 1(a)(9) of this chapter, the majority of the voters of each of the reorganizing political subdivisions voting on the public question approve the public question concerning the reorganization; or

(2) in the case of a reorganization described in section 1(a)(7) or 1(a)(9) of this chapter, the reorganization is approved as set forth in section 32(b) or 32(c) of this chapter.

(b) The political subdivisions are reorganized in the form and under the conditions specified by the legislative bodies of the reorganizing political subdivisions in the plan of reorganization filed with the county recorder under this chapter.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013,*

*SEC.21.*

**IC 36-1.5-4-34.5**

**Establishment of equipment replacement funds**

Sec. 34.5. (a) This section applies to a reorganization under this chapter that:

- (1) occurs after June 30, 2006; and
- (2) involves one (1) or more municipalities and one (1) or more townships, all of which are participating units in a fire protection territory on the date the reorganization is approved by voters.

(b) The fiscal body of a reorganized political subdivision that results from a reorganization described in subsection (a) may:

- (1) establish an equipment replacement fund under IC 36-8-19-8.5 and impose a property tax for the fund as provided in IC 36-8-19-8.5; and
- (2) take any other action under IC 36-8-19-8.5 that may be taken under that section by a participating unit in a fire protection territory.

(c) If a reorganized political subdivision establishes an equipment replacement fund under IC 36-8-19-8.5 as authorized by this section, the department of local government finance may adjust the maximum permissible ad valorem property tax levy that would otherwise apply to the reorganized political subdivision in the same manner in which the department may adjust the maximum permissible ad valorem property tax levy of a civil taxing unit under IC 6-1.1-18.5-10.5 to meet the civil taxing unit's obligations to a fire protection territory established under IC 36-8-19.

*As added by P.L.255-2013, SEC.8.*

**IC 36-1.5-4-35**

**Appointment of town precinct boards**

Sec. 35. (a) This section applies to an initial election:

- (1) of the members of a governing body or officers that are elected by the voters for a reorganized political subdivision that:
  - (A) is a town; and
  - (B) has town boundaries that encompass part of another town that was part of the reorganization;
- (2) that is conducted before the reorganization takes effect; and
- (3) to which IC 3-10-7-1 applies.

(b) The members of each precinct board shall be jointly appointed by the town election boards of each of the reorganizing political subdivisions.

*As added by P.L.186-2006, SEC.4.*

**IC 36-1.5-4-36**

**Initial election of officials of reorganized political subdivision**

Sec. 36. (a) This section applies if section 5 of this chapter

requires an election for a reorganization to become effective.

(b) At the next:

(1) general election, if:

(A) the reorganized political subdivision is not a municipality or a school corporation; or

(B) the reorganized political subdivision results from a reorganization including a county and at least one (1) municipality;

(2) municipal election, if the reorganized political subdivision is a municipality; or

(3) primary or general election, as specified in an election plan adopted in substantially identical resolutions by the legislative body of each of the participating political subdivisions if the reorganized political subdivision is a school corporation;

after the voters approve a reorganization, one (1) set of officers for the reorganized political subdivision having the combined population of the reorganizing political subdivisions shall be elected by the voters in the territory of the reorganized political subdivision as prescribed by statute.

(c) In the election described in subsection (b):

(1) one (1) member of the legislative body of the reorganized political subdivision shall be elected from each election district established by the reorganizing political subdivisions in substantially identical resolutions adopted by the legislative body of each of the reorganizing political subdivisions; and

(2) the total number of at large members shall be elected as prescribed by statute for the reorganized political subdivision.

(d) If appointed officers are required in the reorganized political subdivision, one (1) set of appointed officers shall be appointed for the reorganized political subdivision. The appointments shall be made as required by statute for the reorganized political subdivision. Any statute requiring an appointed officer to reside in the political subdivision where the appointed officer resides shall be treated as permitting the appointed officer to reside in any part of the territory of the reorganized political subdivision.

*As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.112.*

### **IC 36-1.5-4-37**

#### **Change of boundaries**

Sec. 37. The legislative bodies of the reorganizing political subdivisions and an adjacent political subdivision may change the boundaries of the reorganized political subdivision by adopting substantially identical resolutions clearly describing the boundary changes. The resolutions must be filed as required by law for a boundary change for the reorganized political subdivision and may not provide for a territory that is smaller than the territory permitted by law for any of the political subdivisions. If the law establishes

additional procedures for the annexation or disannexation of the territory of a political subdivision, the political subdivisions changing boundaries must comply with the annexation or disannexation procedures required by law.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-38**

##### **Powers of reorganized political subdivision**

Sec. 38. (a) A reorganized political subdivision has the powers granted by statute to a political subdivision of the same type as the reorganized political subdivision, including a power described in subsection (b). However, if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power or have the officers or number of offices that a statute would have permitted any of the reorganizing political subdivisions to have.

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

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

(2) Impose any tax levy or adopt any tax that one (1) or more of the reorganizing political subdivisions were authorized to impose or adopt before the reorganization.

(c) This subsection applies to reorganizations approved by voters after June 30, 2013. Notwithstanding subsection (a), if:

(1) a first political subdivision is located in whole or in part within one (1) or more other political subdivisions that reorganize under this article; and

(2) the first political subdivision does not participate in or does not approve the reorganization;

the reorganization does not affect the rights, powers, and duties of the first political subdivision, and the reorganized political subdivision may not exercise within the first political subdivision any right, power, or duty unless that right, power, or duty was exercised within the first political subdivision before the reorganization by at least one (1) of the reorganizing political subdivisions.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.22; P.L.255-2013, SEC.9.*

#### **IC 36-1.5-4-39**

##### **Exercise of powers of reorganizing political subdivisions**

Sec. 39. (a) If a law does not permit the reorganized political subdivision to exercise generally throughout the territory of the reorganized political subdivision a power that any of the reorganizing political subdivisions had before the reorganization, the reorganized



political subdivision may exercise the power outside the original territory of the reorganizing political subdivision only by following the laws applicable to the expansion of the service area of the reorganizing political subdivision.

(b) Subject to subsection (a), a reorganized political subdivision that results from a reorganization under this chapter must continue to carry out the duties imposed by Indiana law on the reorganizing political subdivisions that combined to form the reorganized political subdivision.

*As added by P.L.186-2006, SEC.4. Amended by P.L.202-2013, SEC.23.*

#### **IC 36-1.5-4-39.5**

##### **Reorganization plan**

Sec. 39.5. A plan of reorganization may establish within a reorganized political subdivision territories or districts:

- (1) in which specified services provided by the reorganized political subdivision will be provided at different levels, quantities, or amounts; and
- (2) in which the fees, charges, or taxes imposed by the reorganized political subdivision will vary depending on the level, quantity, or amount of the services provided.

*As added by P.L.202-2013, SEC.24.*

#### **IC 36-1.5-4-40**

##### **Debt; pension obligations**

Sec. 40. The following apply in the case of a reorganization under this article:

- (1) Indebtedness that was incurred by a political subdivision before the reorganization:
  - (A) may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization; and
  - (B) must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization.
- (2) Pension obligations existing as of the effective date of the reorganization:
  - (A) may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization; and
  - (B) must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.

*As added by P.L.186-2006, SEC.4.*

#### **IC 36-1.5-4-40.5**

##### **Reorganization of a township and another political subdivision; powers and duties; remonstrance; borrowing; tax levies**

Sec. 40.5. The following apply in the case of a reorganization under this article that includes a township and another political subdivision:

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

(A) the reorganized political subdivision is not required to repay the entire loan during the following year; and

(B) the reorganized political subdivision may repay the loan in installments during the following five (5) years.

(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 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 taxpayers' 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 the 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 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 IC 36-6-6-14(b) or IC 36-6-6-14(c) in the year preceding the year in which the reorganization is effective.

*As added by P.L.255-2013, SEC.10.*

#### **IC 36-1.5-4-41**

##### **Pension fund membership**

Sec. 41. (a) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter or a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1977 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department, police department, or county police department of the reorganized political subdivision;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter or police officer shall receive credit for any service as a

member of the 1977 fund before the reorganization to determine the firefighter's or police officer's eligibility for benefits under IC 36-8-8.

(b) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter by a political subdivision that is reorganized under this article;

(2) who is a member of the 1937 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department of the reorganized political subdivision;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the reorganization to determine the firefighter's eligibility for benefits under IC 36-8-7.

(c) Notwithstanding any other law, an individual:

(1) who is employed as a member of a county police department by a political subdivision that is reorganized under this article;

(2) who is a member of the sheriff's pension trust before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes a law enforcement officer of the reorganized political subdivision;

remains a member of the sheriff's pension trust. The individual shall receive credit for any service as a member of the sheriff's pension trust before the reorganization to determine the individual's eligibility for benefits under IC 36-8-10.

(d) Notwithstanding any other law, an individual:

(1) who is employed as a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1925 fund or 1953 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the police department or county police department of the reorganized political subdivision;

remains a member of the 1925 fund or 1953 fund. The police officer shall receive credit for any service as a member of the 1925 fund or 1953 fund before the reorganization to determine the police officer's eligibility for benefits under IC 36-8-6 or IC 36-8-7.5.

(e) Notwithstanding any other law, an individual:

(1) who is employed by a political subdivision that is reorganized under this article;

(2) who is a member of the pre-1996 account (as defined in IC 5-10.4-1-12) before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the reorganized political subdivision in a position that qualifies the individual for service credit in the Indiana state teachers' retirement fund;

remains a member of the pre-1996 account.

*As added by P.L.186-2006, SEC.4. Amended by P.L.2-2007,*

SEC.383.

**IC 36-1.5-4-42**

**Transfer of functions of elected office**

Sec. 42. If the functions of an elected office are transferred to another elected office by a reorganization under this article, any law, rule, or agreement that requires or permits an action by an elected officer shall be treated after the functions of the elected officer are transferred as referring to the elected officer to which the functions have been transferred by the reorganization.

*As added by P.L.186-2006, SEC.4.*

**IC 36-1.5-4-43**

**Termination of reorganization; restoration of reorganizing political subdivisions**

Sec. 43. The legislative body or voters of a reorganized political subdivision may terminate a reorganization or restore one (1) or more of the reorganizing political subdivisions participating in a reorganization in the same manner that a reorganization may be initiated under this chapter. If the voters in the reorganized political subdivision approve a public question approving termination of the reorganization or restoration of a reorganizing political subdivision, the reorganized political subdivision shall terminate the reorganization and restore the reorganizing political subdivisions in the same manner as a reorganization is completed under this chapter.

*As added by P.L.186-2006, SEC.4.*

**IC 36-1.5-4-44**

**Reorganized political subdivision**

Sec. 44. (a) A reorganized political subdivision consisting of:

- (1) two (2) or more townships; and
- (2) at least one (1) municipality;

that has reorganized under this article may exercise park and recreation powers under IC 36-10 if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers.

(b) If a reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise park and recreation powers under IC 36-10, the reorganized political subdivision may establish a park and recreation board.

(c) A park and recreation board established by a reorganized political subdivision under this section:

- (1) shall exercise park and recreation functions within the reorganized political subdivision; and
- (2) has the powers and duties of both a municipal park and recreation board and a township park and recreation board under IC 36-10.

(d) A reorganized political subdivision may by resolution or in the

reorganized political subdivision's plan of reorganization determine:

- (1) the number of members to be appointed to the reorganized political subdivision's park and recreation board;
- (2) the person or entity that shall appoint or remove those members;
- (3) any required qualifications for those members; and
- (4) the terms of those members.

*As added by P.L.202-2013, SEC.25.*

#### **IC 36-1.5-4-45**

##### **Actions prohibited while reorganization pending**

Sec. 45. (a) Except as provided in subsections (c) through (e), a political subdivision may not take an action described in subsection (b) within a reorganizing political subdivision after the date on which a plan of reorganization is finally adopted by all reorganizing political subdivisions.

(b) A political subdivision may not take any of the following actions partially or wholly within a reorganizing political subdivision after the date on which a plan of reorganization is finally adopted by all reorganizing political subdivisions unless all reorganizing political subdivisions agree by adopting identical resolutions:

- (1) Initiate an annexation of territory.
- (2) Establish a fire protection territory or fire protection district.
- (3) Extend water, sewer, or any other infrastructure to the political subdivision.
- (4) Expand zoning jurisdiction under IC 36-7-4-205.

(c) This chapter does not prohibit:

- (1) a political subdivision subject to the reorganization from taking an action under subsection (b) within the political subdivision's own boundaries; and
- (2) any of the reorganizing political subdivisions from taking an action under subsection (b) for the purpose of implementing the plan of reorganization.

(d) A political subdivision may take an action described in subsection (b) after the date on which the reorganization is rejected by the voters under section 33 of this chapter.

(e) If a reorganization is approved by the voters under section 34 of this chapter, a political subdivision may not take an action under subsection (b) until the earlier of the following:

- (1) The plan of reorganization has been implemented.
- (2) One (1) year after the date on which the reorganization is approved under section 34 of this chapter.

*As added by P.L.202-2013, SEC.26.*

#### **IC 36-1.5-4-46**

##### **Promoting position on public question prohibited**

Sec. 46. (a) Except as otherwise provided in this section, during the period beginning with the date the final plan of reorganization is

approved by the legislative body or considered to be approved under section 23.5 of this chapter, and continuing through the day on which the public question is submitted to the voters, a political subdivision may not promote a position on the public question by doing any of the following:

- (1) Using facilities or equipment, including mail and messaging systems, owned by the political subdivision to promote a position on the public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.
- (2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the public question.
- (3) Using an employee to promote a position on the public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the public question at any time. However, if a person described in subsection (c) is advocating for or against a position on the public question or discussing the public question as authorized under subsection (c), an employee of the political subdivision may assist the person in presenting information on the public question if requested to do so by the person described in subsection (c).

However, this section does not prohibit an official or employee of the political subdivision from carrying out duties with respect to a public question that are part of the normal and regular conduct of the official's or employee's office or agency, including the furnishing of factual information regarding the public question in response to inquiries from any person.

(b) This subsection does not apply to:

- (1) a personal expenditure to promote a position on a local public question by an employee of the political subdivision whose employment is governed by a collective bargaining contract or an employment contract; or
- (2) an expenditure to promote a position on a local public question by a person or an organization that has a contract or an arrangement (whether formal or informal) with the political subdivision solely for the use of the political subdivision's facilities.

A person or an organization that has a contract or arrangement (whether formal or informal) with a political subdivision to provide goods or services to the political subdivision may not spend any money to promote a position on the public question. A person or an organization that violates this subsection commits a Class A infraction.

(c) Notwithstanding any other law, an elected or appointed official of a political subdivision may:

- (1) personally advocate for or against a position on a public

question; or

(2) discuss the public question with any individual, group, or organization or personally advocate for or against a position on a public question before any individual, group, or organization; so long as it is not done by using public funds. Advocacy or discussion allowed under this subsection is not considered a use of public funds.

*As added by P.L.202-2013, SEC.27.*