

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7130
BILL NUMBER: HB 1362

NOTE PREPARED: Mar 23, 2006
BILL AMENDED: Mar 14, 2006

SUBJECT: Local Government Reorganization.

FIRST AUTHOR: Rep. Buck
FIRST SPONSOR: Sen. Delph

BILL STATUS: Enrolled

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Reorganization of Political Subdivisions:* The bill establishes a uniform procedure for the reorganization of political subdivisions. It provides that "political subdivision" does not include a local hospital authority or corporation. The bill provides that the reorganization process may be initiated by the legislative bodies of the reorganizing political subdivisions or by a petition signed by 5% of the voters in the reorganizing political subdivisions (as determined by the vote cast in the political subdivision for Secretary of State at the most recent general election). It also provides that the proposed reorganization shall be submitted to the voters for approval if the plan is approved by the legislative bodies of the political subdivisions or, in some circumstances, if at least 10% of the voters in a political subdivision (as determined by the vote cast in the political subdivision for Secretary of State at the most recent general election) submit a petition approving the plan of reorganization and requesting the public question to be held. The bill provides that a reorganization may occur only if the voters of the reorganizing political subdivisions approve the reorganization in the public question.

Reorganization Committee and Plan: The bill requires the reorganizing political subdivisions to appoint individuals to a reorganization committee to develop a plan for reorganization. It specifies the elements that must be included in the plan. The bill provides that political subdivisions and reorganization committees acting under the reorganization statute are subject to the Open Door Law and the Public Records Law.

Reorganizations Between a County and a Municipality: The bill provides that in the case of a proposed reorganization between a county and a municipality, the legislative bodies of the reorganizing political subdivisions must agree on whether the public question on the proposed reorganization shall be: (1) conducted on a countywide basis, without a rejection threshold; or (2) conducted on a countywide basis, with a rejection

threshold. It also provides that in the case of a proposed reorganization between a county and a municipality, the reorganization committee shall include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote in favor of the proposed reorganization, on a countywide basis, for the public question to be approved (the "countywide vote approval percentage").

It provides that if the legislative bodies agree that the public question shall include a rejection threshold, the reorganization committee shall determine that rejection threshold percentage. The bill specifies that the rejection 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. Further, it provides that in the case of a proposed reorganization between a county and a municipality, the reorganization is approved only if: (1) 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 included in reorganization plan; and (2) if the legislative bodies have agreed to include a rejection threshold, 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 a rejection threshold specified in the final reorganization plan and the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold specified in the final reorganization plan.

Department of Local Government Finance (DLGF): The bill requires the DLGF to adjust the maximum property tax levies, maximum property tax rates, and budgets of political subdivisions that reorganize.

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

Effect: The bill provides that when the reorganization is effective, all the participating political subdivisions except the remaining reorganized political subdivision cease to exist.

Conformance: It makes related changes.

Cooperative Agreements: The bill establishes a procedure for political subdivisions to enter into cooperative agreements and provide for the transfer of functions of an employee or department of the political subdivision (including an elected office) to another employee or department of any political subdivision that has entered into the cooperative agreement. It provides that the cooperative agreements must be initiated and approved in the same manner that is set forth in the bill for the reorganization of political subdivisions.

Effective Date: Upon passage.

Explanation of State Expenditures: *Department of Local Government Finance:* The bill could increase administrative costs for the DLGF, which is required to establish a formula for adjusting maximum permissible property tax levies, maximum permissible property tax rates, and budgets. The adjustments could not exceed 50% of the savings or expense reductions realized in the first full year of operation. Further, a political subdivision may petition for judicial review of a final determination of the DLGF. Also, the DLGF will

prescribe forms for petitions, resolutions, certifications, and other writings.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary:* The bill would have indeterminate fiscal impact. To the extent that reorganized political subdivisions or political subdivisions working under cooperative agreements could work more efficiently or avoid duplication of services, costs could be reduced. However, the savings achieved will vary based on the reorganization undertaken. The actual cost of reorganization will also vary, but will likely require additional expenditures for elections, certifications and filings, and reorganization planning.

Background on Reorganization of Political Subdivisions: The bill would allow the reorganization of two or more counties, townships (located entirely within the same county), municipalities, school corporations, municipal corporations, special taxing districts, a township and a municipality, a county and one or more townships, a municipality and a county, a school corporation and a county or municipality, or a municipal corporation and a county or a municipality. A local hospital authority or corporation would not be included. The reorganizations would be limited by requirements that the subdivision be adjacent, that the majority of the population reside within the other subdivision, or other qualifications.

The consolidation could result in a single, new political subdivision, or one political subdivision may subsume another. A legislative body receiving a certified resolution from another political subdivision may adopt a resolution to decline to participate, adopt a substantially identical resolution, or adopt a resolution that differs from the resolution received.

Indebtedness incurred by a political subdivision before reorganization or a pension obligation existing before a reorganization must be paid by the taxpayers that were responsible for payment of the indebtedness or pension obligation before the reorganization. An individual employed as a firefighter, police officer, or sheriff by a reorganizing political subdivision remains a member of the retirement fund under which the individual was a member when the political subdivisions were separate.

The reorganization of political subdivisions may be terminated or restored by the legislative body or voters in the same manner that the reorganization was initiated. A reorganization among several political subdivisions may go forward even if the voters of one political subdivision reject a reorganization plan. In this case, a new plan of reorganization must be approved.

Reorganization Committee: Not later than 30 days after substantially identical resolutions of all parties to a reorganization has been certified, the reorganizing political subdivisions appoint the members of the reorganization committee. The members of the committee serve without pay, but may be reimbursed for expenses incurred in the performance of their duties. The committee may use the offices and staff of the reorganizing subdivisions and the reorganizing subdivisions may employ attorneys, accountants, consultants, and other professionals for the committee.

The reorganization plan proposed by the committee must include the name and description of the reorganized subdivision, its boundaries, the taxing areas, and the membership of the legislative, fiscal, and executive bodies. It must include the disposition of personnel, agreements, assets, and liabilities of the subdivisions, and other matters defined by the committee or legislative body. If a county and municipality are reorganizing and the legislative bodies have specified that the voted shall be conducted with a rejection threshold, then the reorganization plan must include the rejection threshold stated as a percentage. Also, the countywide vote approval percentage, which must be greater than 50%, shall be included in the plan for reorganization of a county and a municipality.

The plan is presented to the legislative body of each reorganizing political subdivision for adoption. The legislative body may adopt the plan, modify it, or reject the plan. The reorganization committee must submit a new reorganization plan within 30 days after a rejection. The final plan of reorganization must be adopted or rejected within one month after the final plan is presented to the legislative body. If a legislative body does not act on the final plan within the one month period, it is considered to be adopted. A rejected plan may be revived by a petition signed by 10% of the voters of the political subdivision.

The powers of the reorganization committee include adopting rules for the administration of the committee, conducting public hearings, reviewing books and records of any reorganizing subdivision, administering oaths, and issuing and enforcing subpoenas and discovery orders.

Cooperative Agreements: A cooperative agreement must provide the duration; purpose; manner of financing, staffing, and supplying any undertaking; methods of termination; manner of administration; and manner of acquiring, holding, and disposing of real and personal assets. It may include additional conditions or term as necessary. Cooperative agreements may be entered so that political subdivisions may transfer the functions of an employee or a department or to share the services of an employee. Political subdivisions may appropriate and pledge any legally available revenues to the payment of bonds, leases, or other obligations of a party to the cooperative agreement. The transfer of money from one fund of a political subdivision for a use authorized by the cooperative agreement is permitted. However, a cooperative agreement may not take any action that one of the parties to the agreement could not carry out on its own.

Explanation of Local Revenues:

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: All.

Information Sources:

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