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FISCAL IMPACT STATEMENT

LS 7573
BILL NUMBER: SB 502

NOTE PREPARED: Jan 13, 2009
BILL AMENDED:

SUBJECT: Government Reorganization.

FIRST AUTHOR: Sen. Delph
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Evaluation of State Government: The bill provides procedures to evaluate and terminate all state agencies and programs on a ten-year cycle. It requires the schools of public and environmental affairs or business schools of Indiana University, Purdue University, Ball State University, Indiana State University, and the University of Southern Indiana to develop internship programs to give credit to students who perform the evaluation of state agencies and programs, and requires the universities to provide the evaluation service under the direction of the Legislative Services Agency (LSA). The bill makes necessary appropriations to implement termination of an agency or agency program.

Resignation of Public Employees: It provides that an employee of a political subdivision is considered to have resigned from employment with the political subdivision if the employee assumes the elected executive office of the political subdivision or becomes an elected member of the political subdivision's legislative body. It provides that the restriction applies to an employee of a political subdivision who assumes an elected office after June 30, 2009. The bill also provides that the restriction does not apply to an employee of a political subdivision who holds elective office on June 30, 2009, and continues to hold or be reelected to the office, and it provides that the restriction does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the government employee.

City Clerks of Second Class Cities: The bill provides that the legislative body of a second class city appoints the city clerk. It provides that individuals elected as city clerk at the 2007 elections may serve in that office until January 1, 2012.

Budget Review: The bill provides that a taxing unit whose governing body are elected to serve on the governing body must submit its proposed budget and property tax levy for review by another specified legislative body whose members are elected.

State Court Expenses: The bill requires the state to pay for certain expenditures incurred by circuit, superior, county, and probate courts, including expenses related to court employees, including bailiffs, probation officers, and court reporters. It provides that each court shall submit its budget to the Division of State Court Administration, and that the Supreme Court shall submit a consolidated budget to the Budget Agency and the General Assembly.

It also requires the Supreme Court to adopt certain rules concerning court procedures and the employment and management of administrative officers.

Election of School Corporation Governing Body: The bill requires that the members of the governing body of a school corporation be elected at the time of the general elections.

School Reorganization: The bill also requires school corporations of less than 2,000 ADM to consolidate unless granted a waiver by the State Board of Education.

Reorganization of Government: It reduces the percentage of registered voters necessary to petition to initiate a governmental reorganization or to provide for approval of a governmental reorganization notwithstanding the rejection by a legislative body. It also establishes a procedure for a township to reorganize itself under the local government reorganization statute.

Reorganization of Townships Outside of Marion County: The bill provides that effective January 1, 2011, for a township not in Marion County that does not reorganize:

- (1) township governmental functions (other than township assessment functions) are abolished;
- (2) the offices of township trustee and township board (including duties and responsibilities related to township assistance, fire protection, cemetery maintenance, parks and recreation, and libraries) are abolished and transfers the duties and responsibilities of the township trustee and township board to the county;
- (3) establishes a county firefighting fund;
- (4) establishes a county cumulative building and equipment fund for firefighting;
- (5) transfers township fund balances to the county and specifies the permitted use of the money;
- (6) makes township indebtedness an obligation of the county, and requires the county to use money transferred from the township to pay the indebtedness;
- (7) allows the county to levy property taxes to pay indebtedness not covered by money transferred from the township, and specifies the areas in which the taxes may be levied; and
- (8) increases the county's maximum property tax levy based on the assumption of former township duties, and establishes a separate county maximum property tax levy for firefighting.

Board of County Commissioners: The bill provides that in counties other than Marion County, the boards of county commissioners are eliminated effective January 1, 2011, the county executive is a single elected chief executive officer, and the county council is the county legislative body as well as the county fiscal body. The bill provides that the initial county chief executive officers are elected at the November 2010

general election.

Marion County Commissioners: The bill also provides that effective January 1, 2011:

- (1) the county treasurer, county auditor, and county assessor in Marion County no longer serve ex officio as county commissioners; and
- (2) the mayor of the consolidated city assumes the duties and powers held by those county commissioners.

Public Safety Coordinating Councils: The bill establishes a public safety coordinating council in each county to coordinate public safety matters in the county.

Municipal Elections: The bill provides that individuals elected to a local office at the 2011 municipal election take office January 1, 2013. It requires that successors of these individuals be elected at the 2016 general election. The bill also requires the LSA to prepare legislation to amend Indiana election law to provide that all municipal elections be held in even-numbered years.

Rainy Day Fund: The bill allows a political subdivision to make transfers to the political subdivision's rainy day fund after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

Funds Transfers Between Departments: The bill allows officers of a political subdivision to transfer money between departments in the same fund of the political subdivision without notice and approval of the Department of Local Government Finance (DLGF) if the transfer meets certain requirements.

Littering: The bill allows a city, town, or county to regulate and adopt civil penalties for littering on public property.

Conforming Amendments: The bill makes other changes and conforming amendments.

Repeals: The bill repeals the procedures for legislative evaluation of state agencies, and it repeals obsolete statutes providing for the option of appointment of members of a governing body of a school corporation. It repeals superseded statutes relating to election of members of a governing body of a school corporation, and it repeals a statute related to the filling of vacancies in the office of city clerk of a second class city.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: Summary-

State Court Expenses – The state General Fund would incur new costs to pay the major portion of court operations of the state's trial court system. The Division of State Court Administration would likely need to add staff to review budget requests from local trial courts since each court is required to submit a budget to the Division of State Court Administration of the Supreme Court. (There were 310 courts in Indiana as of December 31, 2007.) The Supreme Court then is to present a consolidated budget for the operation of all courts to the General Assembly and the Budget Agency at the time and in the format the Budget Agency requests. The added costs for the state will depend on future expenditures and revenues. Based on previous expenditures and revenues between CY 2002 and 2006, the added costs for the state could be \$100 M each year.

Evaluation of State Government: The bill would have indeterminate, but potentially increased costs for legislative evaluation of state agencies resulting from several factors, including LSA supervision of universities evaluating state agencies; an increase in the number of agencies or programs reviewed each year; additional committee members on evaluation committees; and costs associated with termination or addition of state agencies. There are no data available to indicate if cost savings from efficiencies gained by sunset evaluation of state agencies would offset the costs of the evaluations.

State Universities: Additionally, the bill would have increased cost to state universities to develop curricula for evaluation of state agencies for undergraduate and graduate students, to have courses submitted to the Commission on Higher Education, and to provide tenured faculty evaluation services. Costs incurred by universities participating in evaluation programs include faculty not available to pursue grants from federal or private sources or the addition of faculty to provide courses or cover vacation or sabbatical time. Since the course of study or internships would be for credit, tuition may offset some of these faculty costs. The bill does not make an appropriation to the state universities for evaluation of state agencies.

New State Agencies: Also, under the bill a proposal to create a new agency or program would require a cost-benefit analysis using U.S. Office of Management and Budget techniques and other techniques recommended by the Legislative Council, the committee, LSA, or a state university. The resources required to perform a cost-benefit analysis depend upon the expertise needed to develop cost information.

Funds Transfers Between Departments: This provision would reduce administrative time spent by the Department of Local Government Finance (DLGF) to review fund transfers between departments within a local unit of government.

School Reorganization: The bill could increase costs for the State Board of Education to develop reorganization plans for certain school corporations that do not adopt a reorganization plan to be implemented before July 1, 2013. [Before July 1, 2012, a school corporation with an ADM on July 1, 2008, of less than 2,000 students shall, and a school corporation with more than 1,999 may, hold a public meeting to determine a method of reorganization. The governing body of the school corporation will determine the appropriate form of reorganization based on testimony received and carry out the steps required to reorganize. The State Board of Education will develop a plan for school corporations that fail to develop a reorganization plan, unless, based on the information received during the public hearing, the school corporation determines reorganization is not in the best interests of the students and petitions the Board for a waiver from the requirements.]

Background Information and Additional Details:

State Court Expenses: Counties currently pay salary expenses for the following:

- Court commissioners
- Court reporters
- Bailiffs
- Jury commissioners
- Court administrators and staff
- Secretaries
- Law clerks and interns
- Probation officers
- Support staff and other employees

Fringe benefits could also increase these costs if these personnel would be considered state employees. The added fringe benefits costs will depend on the number of persons who would be full-time employees.

Counties also pay the following expenses:

- The daily costs of juries
- Witness fees
- Medical and psychiatric evaluations
- Judges pro tempore (who temporarily substitute for the elected and appointed judges)
- Court interpreters
- Supplies
- Lodging and meals for jurors
- Other services and charges

The table below estimates these expenditures based on expense items reported in the *Indiana Judicial Report* between 2002 and 2006.

Fee revenue is collected from the following sources:

- The county portion of court costs fees
- Civil penalties for local ordinance violations
- Document fees
- Interest on investments
- Adult probation user fees
- Juvenile probation user fees
- Supplemental public defender fees
- Alternative dispute resolutions
- Jury fees

As proposed, these fees would be deposited into the state General Fund instead of the various county revenue accounts.

The added costs for the state will depend on future expenditures and revenues. Based on previous expenditures and revenues between CY 2002 and CY 2006, the added costs for the state could be \$100 M each year.

Net Costs to the State					
	2002	2003	2004	2005	2006
Revenues	\$42.8	\$45.0	\$49.3	\$51.7	\$58.0
Expenditures	\$137.4	\$139.4	\$146.7	\$147.8	\$161.7
Added Costs for State	(\$94.6)	(\$94.4)	(\$97.4)	(\$96.1)	(\$103.7)

Evaluation of State Government: Under the bill, the Legislative Council is to appoint a 16-member committee to review evaluations and make recommendations to the General Assembly concerning the continuation or termination of state agencies or programs, including authorities, boards, bureaus, commissions, committees, departments, divisions, or institutions. In addition, the committee is to direct LSA to oversee evaluations, designate the state university to conduct the evaluation, direct the evaluation, and perform other functions assigned by the Legislative Council. The Legislative Council is to direct the

committee concerning the agency or agency programs they will evaluate, and the committee is to operate under the policies concerning study committees adopted by the Legislative Council.

Agencies and programs will be reviewed and terminated on a 10-year cycle. The annual topics are education, then health and human services (FSSA), health and human services (other than FSSA), Indiana Department of Transportation, public safety, economic development, conservation and environment, and general government.

The Governor may delay the termination of an agency or program by one year if in the Governor's opinion there is a beneficial effect for the state. The funds to operate the agency or program during the delayed termination are appropriated by the bill in the same amount and from the same sources that the program or agency received in the fiscal year before its original date for termination.

The evaluating agency (state university) is to use cost-benefit and cost-effectiveness analysis techniques used by the federal government, along with other tools recommended by the Legislative Council, the committee, LSA, or a participating university. The committee is to supervise both LSA and the state university preparing the evaluation.

The dean of each listed state university is to appoint a tenured faculty member to oversee the evaluation program and act as liaison between LSA and the school. Graduate and undergraduate students must have an opportunity to participate as unpaid interns, and the school must offer elective courses that allow students to receive college credit; receive sufficient education, counseling, and course work, and have access to computers and other equipment.

Legislative Committees: Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$16,500 per interim for committees with 16 members or more.

Current Evaluation Program: Under current law, the Legislative Evaluation and Oversight Policy Subcommittee (LEOPS) of the Legislative Council recommends a topic for evaluation. LSA prepares the evaluation, which is reviewed by a committee appointed by the Legislative Council to receive the report. The committee reviews the evaluation and may make recommendations to the General Assembly. The statute does not terminate the entity reviewed or require the committee to recommend its continuation. Usually, one agency or program is reviewed each year in this process, but LSA has produced as many as four reports in one year when several smaller topics are assigned. LSA has one full-time staff working on evaluation, but other staff members assist as needed.

Sunset Process in Other States: The National Conference of State Legislatures reported in 2001 that of about 45 states that had a sunset program in place at one time since Colorado began the process in 1976, about 16 states continue to have a sunset process today. Most programs use staff to perform evaluations (it appears that no state program uses state universities as the evaluating entity) and, on average, they produce between 5 and 15 reviews a year. According to a report from the Texas Sunset Advisory Commission, reports take from three to eight months to prepare, depending on the complexity of the agency.

Explanation of State Revenues: See *Explanation of State Expenditures*.

Explanation of Local Expenditures: *State Court Expenses* – The anticipated expenditure savings for counties from transferring certain court responsibilities to the state could be roughly \$100 M. Counties would still be responsible for the following:

- Providing and maintaining courtrooms and other rooms and facilities, including furniture and equipment.
- Providing and operating a juvenile detention facility, except for the costs of employing probation officers.
- Providing and operating a secure private facility operated by the court.
- Any community transition program that is operated through a probation department.
- Circuit court alcohol abuse deterrent program and alcohol and drug services program.
- Supplemental payments under IC33-23-5-11 or IC33-38-5-6.
- Returning a juvenile.
- Legal representation for indigents.
- Court appointed special advocates and guardians ad litem.
- Court operations as provided by law.

City Clerks of Second Class Cities: Appointment of second class city clerks could minimally reduce ballot printing costs in counties using optical-scan voting systems.

Election of School Corporation Governing Body: The bill would affect counties that contain school corporations with board members that are either elected by primary or include appointed members. County election boards and circuit court clerks would likely make minimal adjustments to their election budgets to print school board member ballots for general instead of primary elections. Counties that have appointed boards may require additional ballot space to accommodate school board candidates, which could lead to slightly higher ballot costs in counties using optical-scan voting systems. [Department of Education survey data for 2006 indicates that 94% of surveyed school corporations have elected boards, and for 2007 it indicates that 89% of the school corporations had elected boards. There are no data available to indicate how many boards are elected during the primary election cycle.]

Budget Review: Potentially, the bill could slightly increase costs for cities or towns or county legislative bodies to review the budget and property tax increase of a taxing unit that does not have an elected board. Under current law, this review process is triggered by a proposed 5% increase in tax levy or a 5% increase in proposed operating budget for a public library. A city or town reviews the budget of a public library or taxing unit wholly contained within the boundaries of the city or town, and a county reviews those that are not contained within the boundaries. Specifically, solid waste management districts would have this added review because public libraries are already reviewed, and, under the bill school corporations would have elected boards.

Public Safety Coordinating Councils: The bill could increase costs for meetings of the public safety coordinating council. The bill establishes in each county outside of Marion County, a public safety coordinating council consisting of the county sheriff, the chiefs of each police department in the county, the chiefs of each fire department in the county, and at least one individual representing emergency medical services, health care providers, and other interests the council recommends. The individuals are to be appointed by the county executive. All members of the council are to serve without compensation. [The councils will develop, adopt, review, and revise a countywide public safety plan, serve as a forum to discuss public safety issues and resolve public safety problems within the county, assist in the coordination of public safety services within the county and in neighboring counties, and serve as the county's coordinating body with the Indiana Department of Homeland Security and the Counter-terrorism and Security Council.]

Municipal Elections: Under the bill, the municipal election of 2011 would be eliminated. Municipal offices

would be elected in even-numbered years from 2016 on. There would be a cost savings to municipalities under the proposal. If the county runs the municipality's election, there may be a savings to the county.

[Expenses to run an election include precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary). Based on a small sample of Indiana counties, per diem for election board members range from \$65 to \$150 for inspectors and from \$40 to \$100 for judges, clerks, and sheriffs. Under current law, county election boards are required, with some exceptions, to conduct a municipal primary and general election. Expenses from county-operated municipal elections are reimbursed by the municipality to the county. If the expenses of a municipal primary or general election cannot be directly attributed to a single municipality, the expenses are apportioned 25% to the county and 75% to the municipalities in the county holding an election.]

Board of County Commissioners: The bill does not delete any current county executive or legislative responsibility. It reassigns duties from a three-member board of county commissioners to a single elected chief executive, which could reduce compensation costs. However, officer compensation is to be determined by the county fiscal body, and any cost savings will result from the decisions of the fiscal body. Results will vary by county. Officers are to be compensated from the county general fund.

Marion County Commissioners: The reassignment of duties from the county commissioners to the executive should have no fiscal impact. IC 36-3-3-10 indicates that in a county with a consolidated city, the county auditor, county treasurer, and county assessor act as the board of commissioners without additional compensation for performing the duties of the board. The city-county legislative body, however, may increase the compensation for the mayor assuming the duties of the board of county commissioners.

Reorganization of Government: The bill has indeterminate, one-time costs for single townships reorganizing under the bill. The bill allows for reorganization of a single township with the process initiated by ordinance or petition. The process calls for formation of a township reorganization committee and development of a township reorganization plan which provides for the exercise of township executive and legislative function. The township legislative body is to receive the plan and hold a public hearing in which the plan is accepted, accepted with modifications, or rejected by the legislative body. A public question is to be placed on the ballot to reorganize the township if the plan is accepted.

School Reorganization: Schools of fewer than 2,000 students must, and schools with more than 1,999 students may, reorganize under the bill. For those schools which are required to reorganize but fail to do so, the State Board of Education is to develop a reorganization plan for the school and will require the governing body of the school to implement the plan. The impact on school corporation costs is unknown and will depend on local decisions and actions.

Reorganization of Townships Outside of Marion County: The bill has indeterminate fiscal impact on townships outside of Marion County that do not reorganize and on the counties that contain the township. The bill does not delete or diminish any responsibilities or administrative functions currently assigned in statute to the township trustees, township boards, or other entities, but rather transfers the responsibilities to the county if the township does not reorganize. If the county can perform or contract for the performance of these duties more efficiently than the township governments, cost savings will result.

Background on Reorganization of Townships Outside of Marion County-

Abolition of Townships: Except in a township that was reorganized before January 1, 2011, in a county without a consolidated city, the offices of the township trustee, and township board members are abolished. All functions, duties, and responsibilities of the township trustee are transferred to the county. On January 1, 2011, the assets of the township, including equipment, records, personnel, and contracts transfer to the county.

Funds Transfers: The bill provides that township debt service funds are to transfer to the county to pay any indebtedness or lease rental obligation for which the fund was established. Any remaining balance in the fund transfers to the county general fund. Township cumulative building and equipment funds, general funds, and firefighting funds transfer to like-named county funds. Township assistance funds transfer to the county township assistance fund. Counties are to pay expenses for township cemeteries from the cemetery fund for townships.

Township Assistance: The county will have the same powers in administration of township assistance as the township trustee has, including reporting requirements, and the same standards and requirements for recipients apply to township assistance administered by the county. The county or its employees are subject to criminal penalties for disclosure of information. Any township assistance granted but not disbursed prior to January 1, 2011, is disbursed and administered by the county. The county also has all the rights, duties, and responsibilities for emergency medical services. Drugs and vaccines provided to indigents are paid through the county's township assistance fund.

Detrimental Plants; Parks and Recreation; and Library, Library District, or Library Services Contracts: Duties concerning detrimental plants are to be conferred and imposed on the county for property in the county. The county legislative body will act to borrow money to meet emergency needs. Any fines collected for a Class C infraction concerning detrimental plants are to be placed in the appropriate county fund. The weed control board will include the county official responsible for the destruction of detrimental plants rather than township trustees. Township powers and duties concerning parks and recreation are also to be transferred to the county.

Firefighting: The county executive is to be responsible for providing fire protection in all unincorporated areas of the county. A county may hire its own firefighters, contract or cooperate with a municipal fire department, or contract with a volunteer fire department. Also, without contract, a county with its own fire department may provide fire protection, emergency services, or both within a municipality that does not have a full-time fire department if the legislative body of the municipality adopts an ordinance and the legislative body of the county adopts a resolution to provide services without contract. Fire protection districts and fire protection territories remain unchanged, and counties may contract with these units for fire services.

The county executive is to specify which township firefighters and emergency service employees will become county firefighters, and the county may establish a merit system for the county's fire department. The county appointing authority is to be considered the safety board of the county. After December 31, 2010, the county fire chief will make determinations concerning public fireworks displays in unincorporated areas.

The county may levy a real and personal property tax for the county firefighting fund in the county that is outside of a municipality (if there is no agreement to provide services) and outside of any fire protection districts or territories. Costs attributable to providing fire protection or emergency services are to be paid from the county firefighting fund. The county legislative body may determine the amount of a fee for false alarms, and fees collected are to be placed in the county firefighting fund. The county executive, with the

approval of the county legislative body, may purchase firefighting apparatus and equipment over a period not exceeding 6 years, or 15 years with state or federal funding.

Firefighter Pension: The local boards for the 1937 Firefighters' Pension Fund and the 1977 Police Officers' and Firefighters' Pension and Disability Fund are dissolved effective January 1, 2011. The powers and duties of the boards are to be assumed by a county's local board for each fund. The county's legislative body may adjust the board membership to reflect the dissolution of the township boards. Active members of the 1937 Fund and the 1977 Fund continue to be members of their respective plans. Members of the 1977 Fund will receive credit for all years of service in a township fire department.

Boards and Commissions: Certain statutory appointments of township executives to the transportation and public works board will be eliminated after December 31, 2010. Township representation to the county drainage advisory committee will change from the township executive to a resident of each township appointed by the county executive. The flood control board membership will change from the executive of each member township to a person appointed by the county executive. The county legislative body will appoint members of the library board of a district located in one township. For an 1899 township library, the school township trustee is to be replaced by a member appointed by the school board of the school corporation serving the county.

Explanation of Local Revenues: *Civil Penalties for Littering-* Cities, counties, and towns that pass littering ordinances could receive additional revenue from civil penalties assessed on violators. All revenue collected would be deposited in the local unit's general fund. The maximum civil penalties would be assessed under the following schedule: \$100 for the first violation, \$250 for the second violation, and \$500 for subsequent violations.

State Agencies Affected: Supreme Court; State Court Administrator; State-funded universities; Legislative Council; State agencies and programs; Department of Local Government Finance.

Local Agencies Affected: Cities, counties, towns, and townships; County courts.

Information Sources: *Indiana Judicial Service Reports,-* 2002 through 2006.

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