

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 240 be amended to read as follows:

- 1 Page 1, delete lines 1 through 15.
- 2 Delete pages 2 through 5.
- 3 Page 6, delete lines 1 through 11.
- 4 Page 7, line 38, delete "or (after December 31, 2012) the county".
- 5 Page 7, line 39, delete "fiscal body".
- 6 Page 8, line 10, delete "(before)".
- 7 Page 8, delete line 11.
- 8 Page 8, line 12, delete "31, 2012)".
- 9 Page 8, line 13, delete "(before January 1, 2013) or the".
- 10 Page 8, line 14, delete "county fiscal body (after December 31,
- 11 2012)".
- 12 Page 8, line 16, delete "or county fiscal body".
- 13 Page 8, delete lines 23 through 42.
- 14 Delete page 9.
- 15 Page 10, delete lines 1 through 20.
- 16 Page 13, delete lines 19 through 42.
- 17 Page 14, delete lines 1 through 20, begin a new paragraph and
- 18 insert:
- 19 "SECTION 9. IC 6-1.1-18.5-1, AS AMENDED BY P.L.154-2006,
- 20 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 UPON PASSAGE]: Sec. 1. As used in this chapter:
- 22 "Ad valorem property tax levy for an ensuing calendar year" means
- 23 the total property taxes imposed by a civil taxing unit for current
- 24 property taxes collectible in that ensuing calendar year.
- 25 "Adopting county" means any county in which the county adjusted
- 26 gross income tax is in effect.
- 27 "Civil taxing unit" means any taxing unit except a school
- 28 corporation.
- 29 "Maximum permissible ad valorem property tax levy for the
- 30 preceding calendar year" means the greater of:
- 31 (1) the remainder of:

- 1 (A) ~~the~~ civil taxing unit's maximum permissible ad valorem
 2 property tax levy for the calendar year immediately preceding
 3 the ensuing calendar year, as that levy was determined under
 4 section 3 of this chapter; ~~minus~~
 5 (B) ~~one-half (1/2) of the remainder of:~~
 6 (i) ~~the civil taxing unit's maximum permissible ad valorem~~
 7 property tax levy referred to in clause (A); ~~minus~~
 8 (ii) ~~the civil taxing unit's ad valorem property tax levy for~~
 9 the calendar year immediately preceding the ensuing
 10 calendar year referred to in subdivision (2); or
 11 (2) the civil taxing unit's ad valorem property tax levy for the
 12 calendar year immediately preceding the ensuing calendar year,
 13 as that levy was determined by the department of local
 14 government finance in fixing the civil taxing unit's budget, levy,
 15 and rate for that preceding calendar year under IC 6-1.1-17, and
 16 after eliminating the effects of temporary excessive levy appeals
 17 and temporary adjustments made to the working maximum levy
 18 for the calendar year immediately preceding the ensuing calendar
 19 year, as determined by the department of local government
 20 finance.

21 "Taxable property" means all tangible property that is subject to the
 22 tax imposed by this article and is not exempt from the tax under
 23 IC 6-1.1-10 or any other law. For purposes of ~~sections 2 and section 3~~
 24 of this chapter, the term "taxable property" is further defined in section
 25 6 of this chapter.

26 ~~"Unadjusted assessed value" means the assessed value of a civil~~
 27 taxing unit as determined by local assessing officials and the
 28 department of local government finance in a particular calendar year
 29 before the application of an annual adjustment under IC 6-1.1-4-4.5 for
 30 that particular calendar year or any calendar year since the last general
 31 reassessment preceding the particular calendar year:

32 SECTION 10. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,
 33 SECTION 231, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2010]: Sec. 10.5. (a) This section does not
 35 apply to the following:

- 36 (1) An elected or appointed officer.
 37 (2) An individual described in IC 20-26-4-11.
 38 (b) **Subject to IC 36-1-20**, an employee of a political subdivision
 39 may:
 40 (1) be a candidate for any elected office and serve in that office if
 41 elected; or
 42 (2) be appointed to any office and serve in that office if appointed;
 43 without having to resign as an employee of the political subdivision."

44 Page 14, delete lines 28 through 37, begin a new paragraph and
 45 insert:

46 "SECTION 15. IC 36-1-20 IS ADDED TO THE INDIANA CODE
 47 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2010]:

2 **Chapter 20. Public Safety Employees Serving on Legislative**
3 **Bodies**

4 **Sec. 1. This chapter applies only to a member of the legislative**
5 **body of a political subdivision who is employed by the political**
6 **subdivision as a public safety employee.**

7 **Sec. 2. As used in this chapter, "confidential or policymaking**
8 **position" refers to either of the following:**

9 (1) **An upper level policymaking position (as defined in**
10 **IC 36-8-1-12).**

11 (2) **A position subject to the appointment of the executive or**
12 **legislative body of the political subdivision.**

13 **Sec. 3. As used in this chapter, "employer" refers to the**
14 **department of a political subdivision that employs a member of the**
15 **legislative body of the political subdivision as a public safety**
16 **employee.**

17 **Sec. 4. As used in this chapter, "public safety employee" has the**
18 **meaning set forth in IC 5-10-8-2.2.**

19 **Sec. 5. A member of the legislative body of a political**
20 **subdivision may not do any of the following:**

21 (1) **Accept an appointment to a confidential or policymaking**
22 **position of the political subdivision.**

23 (2) **Serve in a confidential or policymaking position of the**
24 **political subdivision.**

25 (3) **Serve as a member of a committee of the legislative body**
26 **that has jurisdiction over the member's employer.**

27 (4) **Vote on any matter relating to the budget of the member's**
28 **employer.**

29 **Sec. 6. A member of the legislative body of a political**
30 **subdivision who violates section 5 of this chapter is considered to**
31 **have resigned as a member of the legislative body.**

32 **Sec. 7. The legislative body of a political subdivision may adopt**
33 **ordinances for the implementation of the details of this chapter.**

34 SECTION 16. IC 36-4-4-2 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The powers of a
36 city are divided between the executive and legislative branches of its
37 government. A power belonging to one (1) branch of a city's
38 government may not be exercised by the other branch.

39 (b) **Subject to IC 36-1-20**, a city employee other than an elected or
40 appointed public officer may:

41 (1) be a candidate for any elective office and serve in that office
42 if elected; or

43 (2) be appointed to any office and serve in that office if appointed;
44 without having to resign as a city employee."

45 Page 15, delete lines 36 through 42, begin a new paragraph and
46 insert:

47 "SECTION 19. IC 36-6-9 IS ADDED TO THE INDIANA CODE

1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]:

3 **Chapter 9. Employment of Relatives**

4 **Sec. 1. This section does not apply to an individual who:**

- 5 (1) is a contractor or employed by a contractor for the design
- 6 or construction of a township public works project;
- 7 (2) is a vendor or employed by a vendor for a township
- 8 purchase of supplies;
- 9 (3) is a vendor or employed by a vendor for a township
- 10 purchase of mowing services or property maintenance
- 11 services; or
- 12 (4) is a member of a paid fire department or a volunteer fire
- 13 department that renders fire protection services to the
- 14 township.

15 **Sec. 2. (a) As used in this chapter, "relative" means:**

- 16 (1) a husband;
- 17 (2) a wife;
- 18 (3) a father, grandfather, or stepfather;
- 19 (4) a mother, grandmother, or stepmother;
- 20 (5) a son, grandson, stepson, or son-in-law;
- 21 (6) a daughter, granddaughter, stepdaughter, or
- 22 daughter-in-law;
- 23 (7) a brother or stepbrother;
- 24 (8) a sister or stepsister;
- 25 (9) an aunt;
- 26 (10) an uncle;
- 27 (11) a niece;
- 28 (12) a nephew; or
- 29 (13) a first cousin.

30 **(b) A relative by adoption, half-blood, marriage, or remarriage**
31 **shall be treated as a relative of whole kinship.**

32 **Sec. 3. Except as provided in section 4 of this chapter, an**
33 **individual who is a relative of a township officer or a township**
34 **employee may not be an employee of the township.**

35 **Sec. 4. A person who on July 1, 2010:**

- 36 (1) is a relative of a township officer or a township employee;
- 37 and
- 38 (2) is employed by the township;

39 **is not prohibited by this chapter, until the expiration of the current**
40 **term of office of the township executive holding office on July 1,**
41 **2010, from being an employee of the township."**

42 Delete page 16.

43 Page 17, delete lines 1 through 27.

44 Page 17, line 33, after "means" insert ":".

45 Page 18, line 16, delete "county" and insert "**township**".

46 Page 18, line 33, delete "county" and insert "**township**".

47 Page 18, line 39, delete "county" and insert "**township**".

- 1 Page 19, after line 1, begin a new paragraph and insert:
 2 "SECTION 24. IC 36-8-3-12 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. **Subject to**
 4 **IC 36-1-20**, members of the safety board and members of any
 5 township, town, or city (including a consolidated city) police
 6 department, fire department, or volunteer fire department (as defined
 7 by IC 36-8-12-2) may:
 8 (1) be candidates for elective office and serve in that office if
 9 elected;
 10 (2) be appointed to any office and serve in that office if appointed;
 11 and
 12 (3) as long as they are not in uniform and not on duty, solicit votes
 13 and campaign funds and challenge voters for the office for which
 14 they are candidates.
- 15 SECTION 25. IC 36-8-10-11 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) The sheriff may
 17 dismiss, demote, or temporarily suspend a county police officer for
 18 cause after preferring charges in writing and after a fair public hearing
 19 before the board, which is reviewable in the circuit court. Written
 20 notice of the charges and hearing must be delivered by certified mail
 21 to the officer to be disciplined at least fourteen (14) days before the
 22 date set for the hearing. The officer may be represented by counsel. The
 23 board shall make specific findings of fact in writing to support its
 24 decision.
- 25 (b) The sheriff may temporarily suspend an officer with or without
 26 pay for a period not exceeding fifteen (15) days, without a hearing
 27 before the board, after preferring charges of misconduct in writing
 28 delivered to the officer.
- 29 (c) A county police officer may not be dismissed, demoted, or
 30 temporarily suspended because of political affiliation nor after the
 31 officer's probationary period, except as provided in this section.
 32 **Subject to IC 36-1-20**, an officer may:
 33 (1) be a candidate for elective office and serve in that office if
 34 elected;
 35 (2) be appointed to an office and serve in that office if appointed;
 36 and
 37 (3) except when in uniform or on duty, solicit votes or campaign
 38 funds for the officer or others.
- 39 (d) The board has subpoena powers enforceable by the circuit court
 40 for hearings under this section. An officer on probation may be
 41 dismissed by the sheriff without a right to a hearing.
- 42 (e) An appeal under subsection (a) must be taken by filing in court,
 43 within thirty (30) days after the date the decision is rendered, a verified
 44 complaint stating in a concise manner the general nature of the charges
 45 against the officer, the decision of the board, and a demand for the
 46 relief asserted by the officer. A bond must also be filed that guarantees
 47 the appeal will be prosecuted to a final determination and that the

1 plaintiff will pay all costs only if the court finds that the board's
2 decision should be affirmed. The bond must be approved as bonds for
3 costs are approved in other cases. The county must be named as the
4 sole defendant and the plaintiff shall have a summons issued as in other
5 cases against the county. Neither the board nor the members of it may
6 be made parties defendant to the complaint, but all are bound by
7 service upon the county and the judgment rendered by the court.

8 (f) All appeals shall be tried by the court. The appeal shall be heard
9 de novo only upon any new issues related to the charges upon which
10 the decision of the board was made. Within ten (10) days after the
11 service of summons, the board shall file in court a complete written
12 transcript of all papers, entries, and other parts of the record relating to
13 the particular case. Inspection of these documents by the person
14 affected, or by the person's agent, must be permitted by the board
15 before the appeal is filed, if requested. The court shall review the
16 record and decision of the board on appeal.

17 (g) The court shall make specific findings and state the conclusions
18 of law upon which its decision is made. If the court finds that the
19 decision of the board appealed from should in all things be affirmed,
20 its judgment should so state. If the court finds that the decision of the
21 board appealed from should not be affirmed in all things, then the court
22 shall make a general finding, setting out sufficient facts to show the
23 nature of the proceeding and the court's decision on it. The court shall
24 either:

25 (1) reverse the decision of the board; or

26 (2) order the decision of the board to be modified.

27 (h) The final judgment of the court may be appealed by either party.
28 Upon the final disposition of the appeal by the courts, the clerk shall
29 certify and file a copy of the final judgment of the court to the board,
30 which shall conform its decisions and records to the order and
31 judgment of the court. If the decision is reversed or modified, then the
32 board shall pay to the party entitled to it any salary or wages withheld
33 from the party pending the appeal and to which the party is entitled
34 under the judgment of the court.

35 (i) Either party shall be allowed a change of venue from the court or
36 a change of judge in the same manner as such changes are allowed in
37 civil cases. The rules of trial procedure govern in all matters of
38 procedure upon the appeal that are not otherwise provided for by this
39 section.

40 (j) An appeal takes precedence over other pending litigation and
41 shall be tried and determined by the court as soon as practical.

1 SECTION 26. [EFFECTIVE UPON PASSAGE] (a)
2 **IC 6-1.1-18.5-1, as amended by this act, applies only to property**
3 **taxes first due and payable after December 31, 2010.**

4 (b) **This SECTION expires July 1, 2014.**

5 SECTION 27. **An emergency is declared for this act."**

6 Renumber all SECTIONS consecutively.

(Reference is to SB 240 as printed January 15, 2010.)

Senator YOUNG R