

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 19, delete lines 34 through 42.
- 2 Delete pages 20 through 22.
- 3 Page 23, delete lines 1 through 35.
- 4 Page 70, between lines 37 and 38, begin a new paragraph and insert:
- 5 "SECTION 52. IC 36-1.5-4-5, AS ADDED BY P.L.186-2006,
- 6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JANUARY 1, 2010 (RETROACTIVE)]: Sec. 5. (a) Except as provided
- 8 in subsection (b), a reorganization approved under this chapter takes
- 9 effect when all of the following have occurred:
- 10 (1) The later of:
- 11 (A) the date that a copy of a joint certification from the county
- 12 election board in each county in which reorganizing political
- 13 subdivisions are located that indicates that:
- 14 (i) the reorganization has been approved by the voters of
- 15 each reorganizing political subdivision; or
- 16 (ii) in the case of a reorganization described in section
- 17 1(a)(9) of this chapter, the reorganization has been approved
- 18 as set forth in section 32(b) of this chapter;
- 19 is recorded as required by section 31 of this chapter; or
- 20 (B) the date specified in the finally adopted plan of

- 1 reorganization.
- 2 (2) The appointed or elected officers of the reorganized political
- 3 subdivision are elected (as prescribed by section 36 of this
- 4 chapter) or appointed and qualified, if:
- 5 (A) the reorganized political subdivision is a new political
- 6 subdivision and reorganizing political subdivisions are not
- 7 being consolidated into one (1) of the reorganizing political
- 8 subdivisions;
- 9 (B) the reorganized political subdivision will have different
- 10 boundaries than any of the reorganizing political subdivisions;
- 11 (C) the reorganized political subdivision will have different
- 12 appointment or election districts than any of the reorganizing
- 13 political subdivisions; or
- 14 (D) the finally adopted plan of reorganization requires new
- 15 appointed or elected officers before the reorganization
- 16 becomes effective.

17 (b) A reorganization approved under this chapter may not take effect

18 during the year preceding a year in which a federal decennial census is

19 conducted. A consolidation that would otherwise take effect during the

20 year preceding a year in which a federal decennial census is conducted

21 takes effect January 2 1 of the year in which a federal decennial census

22 is conducted.

23 **(c) Notwithstanding subsection (b) as that subsection existed on**

24 **December 31, 2009, a reorganization that took effect January 2,**

25 **2010, because of the application of subsection (b), as that**

26 **subsection existed on December 31, 2009, is instead considered to**

27 **take effect January 1, 2010, without the adoption of an amended**

28 **reorganization plan.**

29 SECTION 53. IC 36-2-1-2 IS AMENDED TO READ AS

30 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

31 Sec. 2. (a) If the resident voters in a specified territory in two (2) or

32 more contiguous counties desire to change the boundaries of their

33 respective counties, they may file a petition with the executives of their

34 respective counties requesting that the territory be transferred. The

35 petition must:

- 36 (1) be signed by at least the number of voters resident in the
- 37 territory requested to be transferred required to place a candidate
- 38 on the ballot under IC 3-8-6-3;

1 (2) contain a clear, distinct description of the requested boundary
2 change; and

3 (3) not propose to decrease the area of any county below four
4 hundred (400) square miles in compliance with Article 15,
5 Section 7 of the Constitution of the State of Indiana.

6 (b) Whenever a petition under subsection (a) is filed with a county
7 executive, the executive shall determine, at its first meeting after the
8 petition is filed:

9 (1) whether the signatures on the petition are genuine; and

10 (2) whether the petition complies with subsection (a).

11 (c) If the determinations under subsection (b) are affirmative, the
12 executive shall certify the question to the county election board of each
13 affected county. The county election boards shall jointly order a special
14 election to be held, scheduling the election so that the election is held
15 on the same date in each county interested in the change, but not later
16 than thirty (30) days and not on the same date as a general election. The
17 election shall be conducted under IC 3-10-8-6. All voters of each
18 interested county are entitled to vote on the question. The question
19 shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and
20 must state "Shall the boundaries of _____ County and
21 _____ County change?".

22 (d) After an election under subsection (c), the clerk of each county
23 shall make a certified copy of the election returns and not later than
24 five (5) days after the election file the copy with the auditor of the
25 county. The auditor shall, not later than five (5) days after the filing of
26 the returns in the auditor's office, make a true and complete copy of the
27 returns, certified under the auditor's hand and seal, and deposit the copy
28 with the auditor of every other county interested in the change.

29 (e) After copies have been filed under subsection (d), the auditor of
30 each county shall call a meeting of the executive of the county, which
31 shall examine the returns. If a majority of the voters of each interested
32 county voted in favor of change, the executive shall:

33 (1) enter an order declaring their boundaries to be changed as
34 described in the petition; and

35 (2) if the county has received territory from the transfer, adopt
36 revised descriptions of:

37 (A) county commissioner districts under IC 36-2-2-4; and

38 (B) county council districts under IC 36-2-3-4;

1 so that the transferred territory is assigned to at least one (1) county
2 commissioner district and at least one (1) county council district.

3 (f) The executive of each county shall file a copy of the order
4 described in subsection (e)(1) with:

5 (1) the office of the secretary of state; and

6 (2) the circuit court clerk of the county.

7 Except as provided in subsection (g), the transfer of territory becomes
8 effective when the last county order is filed under this subsection.

9 (g) An order declaring county boundaries to be changed may not
10 take effect during the year preceding a year in which a federal
11 decennial census is conducted. An order that would otherwise take
12 effect during the year preceding a year in which a federal decennial
13 census is conducted takes effect January 1 of the year in which a
14 federal decennial census is conducted.

15 (h) An election under this section may be held only once every three
16 (3) years.

17 **(i) Notwithstanding subsection (g) as that subsection existed on**
18 **December 31, 2009, a boundary change that took effect January 2,**
19 **2010, because of the application of subsection (g), as that**
20 **subsection existed on December 31, 2009, is instead considered to**
21 **take effect January 1, 2010, without an amended order or any**
22 **other additional action being required."**

23 Page 71, between lines 4 and 5, begin a new paragraph and insert:

24 "SECTION 55. IC 36-3-2-7 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

26 Sec. 7. (a) This section governs the transfer of territory that is either:

27 (1) inside the corporate boundaries of the consolidated city and
28 contiguous to an excluded city; or

29 (2) inside the corporate boundaries of an excluded city and
30 contiguous to the consolidated city.

31 IC 36-4-3 does not apply to such a transfer.

32 (b) If the owners of land located in territory described in subsection
33 (a) want to have that territory transferred from one (1) municipality to
34 the other, they must file:

35 (1) a petition for annexation of that territory with the legislative
36 body of the contiguous municipality; and

37 (2) a petition for disannexation of that territory with the legislative
38 body of the municipality containing that territory.

1 Each petition must be signed by at least fifty-one percent (51%) of the
2 owners of land in the territory sought to be transferred. The territory
3 must be reasonably compact in configuration, and its boundaries must
4 generally follow streets or natural boundaries.

5 (c) Each legislative body shall, not later than sixty (60) days after a
6 petition is filed with it under subsection (b), either approve or
7 disapprove the petition, with the following results:

8 (1) Except as provided in subsection (g), if both legislative bodies
9 approve, the transfer of territory takes effect:

10 (A) on the effective date of the approval of the latter
11 legislative body to act; and

12 (B) when a copy of each transfer approval has been filed under
13 subsection (f).

14 (2) If the legislative body of the contiguous municipality
15 disapproves or fails to act within the prescribed period, the
16 proceedings are terminated.

17 (3) If the legislative body of the contiguous municipality approves
18 but the legislative body of the other municipality disapproves or
19 fails to act within the prescribed period, the proceedings are
20 terminated unless there is an appeal under subsection (d).

21 (d) In the case described by subsection (c)(3), the petitioners may,
22 not later than sixty (60) days after the disapproval or expiration of the
23 prescribed period, appeal to the circuit court. The appeal must allege
24 that the benefits to be derived by the petitioners from the transfer
25 outweigh the detriments to the municipality that has failed to approve,
26 which is defendant in the appeal.

27 (e) The court shall try an appeal under subsection (d) as other civil
28 actions, but without a jury. If the court determines that:

29 (1) the requirements of this section have been met; and

30 (2) the benefits to be derived by the petitioners outweigh the
31 detriments to the municipality;

32 it shall order the transfer of territory to take effect on the date its order
33 becomes final, subject to subsection (g), and shall file the order under
34 subsection (f). However, if the municipality, or a district of it, is
35 furnishing sanitary sewer service or municipal water service in the
36 territory, or otherwise has expended substantial sums for public
37 facilities (other than roads) specially benefiting the territory, the court
38 shall deny the transfer.

1 (f) A municipal legislative body that approves a transfer of territory
 2 under subsection (c) or a court that approves a transfer under
 3 subsection (e) shall file a copy of the approval or order, setting forth a
 4 legal description of the territory to be transferred, with:

5 (1) the office of the secretary of state; and

6 (2) the circuit court clerk of each county in which the
 7 municipality is located.

8 (g) A transfer of territory under this section may not take effect
 9 during the year preceding a year in which a federal decennial census is
 10 conducted. A transfer of territory that would otherwise take effect
 11 during the year preceding a year in which a federal decennial census is
 12 conducted takes effect January 2 1 of the year in which a federal
 13 decennial census is conducted.

14 (h) A petition for annexation or disannexation under this section
 15 may not be filed with respect to land as to which a transfer of territory
 16 has been disapproved or denied within the preceding three (3) years.

17 (i) The legislative body of a municipality annexing territory under
 18 this section shall assign the territory to at least one (1) municipal
 19 legislative body district under IC 36-3-4-3 or IC 36-4-6 not later than
 20 thirty (30) days after the transfer of territory becomes effective under
 21 this section.

22 **(j) Notwithstanding subsection (g) as that subsection existed on**
 23 **December 31, 2009, a transfer of territory that took effect January**
 24 **2, 2010, because of the application of subsection (g), as that**
 25 **subsection existed on December 31, 2009, is instead considered to**
 26 **take effect January 1, 2010, without any additional action being**
 27 **required.**

28 SECTION 56. IC 36-4-2-9 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 30 Sec. 9. (a) Except as provided in subsection (c), a merger approved
 31 under this chapter takes effect when:

32 (1) the officers of the new municipality are elected and qualified,
 33 as prescribed by section 13 of this chapter; and

34 (2) a copy of the agreement under section 2 of this chapter or the
 35 certified election results under section 7 of this chapter are filed
 36 with:

37 (A) the office of the secretary of state; and

38 (B) the circuit court clerk of each county in which the

1 municipality is located.

2 (b) On the effective date of the merger, the merging municipalities
3 cease to exist and are merged into a single municipality of the class
4 created by the combined population of the merging municipalities. The
5 new municipality shall be governed by the laws applicable to that class.

6 (c) A merger approved under this chapter may not take effect during
7 the year preceding a year in which a federal decennial census is
8 conducted. A merger that would otherwise take effect during the year
9 preceding a year in which a federal decennial census is conducted takes
10 effect January 2 1 of the year in which a federal decennial census is
11 conducted.

12 **(d) Notwithstanding subsection (c) as that subsection existed on**
13 **December 31, 2009, a merger that took effect January 2, 2010,**
14 **because of the application of subsection (c), as that subsection**
15 **existed on December 31, 2009, is instead considered to take effect**
16 **January 1, 2010, without any additional action being required.**

17 SECTION 57. IC 36-4-3-7 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
19 Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of
20 this chapter, it must be published in the manner prescribed by IC 5-3-1.
21 Except as provided in subsection (b), (c), or (f), in the absence of
22 remonstrance and appeal under section 11 or 15.5 of this chapter, the
23 ordinance takes effect at least ninety (90) days after its publication and
24 upon the filing required by section 22(a) of this chapter.

25 (b) An ordinance described in subsection (d) or adopted under
26 section 3, 4, 5, or 5.1 of this chapter may not take effect during the year
27 preceding a year in which a federal decennial census is conducted. An
28 ordinance that would otherwise take effect during the year preceding
29 a year in which a federal decennial census is conducted takes effect
30 January 2 1 of the year in which a federal decennial census is
31 conducted.

32 (c) Subsections (d) and (e) apply to fire protection districts that are
33 established after June 14, 1987.

34 (d) Except as provided in subsection (b), whenever a municipality
35 annexes territory, all or part of which lies within a fire protection
36 district (IC 36-8-11), the annexation ordinance (in the absence of
37 remonstrance and appeal under section 11 or 15.5 of this chapter) takes
38 effect the second January 1 that follows the date the ordinance is

1 adopted and upon the filing required by section 22(a) of this chapter.

2 The municipality shall:

3 (1) provide fire protection to that territory beginning the date the
4 ordinance is effective; and

5 (2) send written notice to the fire protection district of the date the
6 municipality will begin to provide fire protection to the annexed
7 territory within ten (10) days of the date the ordinance is adopted.

8 (e) If the fire protection district from which a municipality annexes
9 territory under subsection (d) is indebted or has outstanding unpaid
10 bonds or other obligations at the time the annexation is effective, the
11 municipality is liable for and shall pay that indebtedness in the same
12 ratio as the assessed valuation of the property in the annexed territory
13 (that is part of the fire protection district) bears to the assessed
14 valuation of all property in the fire protection district, as shown by the
15 most recent assessment for taxation before the annexation, unless the
16 assessed property within the municipality is already liable for the
17 indebtedness. The annexing municipality shall pay its indebtedness
18 under this section to the board of fire trustees. If the indebtedness
19 consists of outstanding unpaid bonds or notes of the fire protection
20 district, the payments to the board of fire trustees shall be made as the
21 principal or interest on the bonds or notes becomes due.

22 (f) This subsection applies to an annexation initiated by property
23 owners under section 5.1 of this chapter in which all property owners
24 within the area to be annexed petition the municipality to be annexed.
25 Subject to subsections (b) and (d), and in the absence of an appeal
26 under section 15.5 of this chapter, an annexation ordinance takes effect
27 at least thirty (30) days after its publication and upon the filing required
28 by section 22(a) of this chapter.

29 SECTION 58. IC 36-4-3-12 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

31 Sec. 12. (a) The circuit or superior court shall:

32 (1) on the date fixed under section 11 of this chapter, hear and
33 determine the remonstrance without a jury; and

34 (2) without delay, enter judgment on the question of the
35 annexation according to the evidence that either party may
36 introduce.

37 (b) If the court enters judgment in favor of the annexation, the
38 annexation may not take effect during the year preceding the year in

1 which a federal decennial census is conducted. An annexation that
2 would otherwise take effect during the year preceding a year in which
3 a federal decennial census is conducted takes effect January ~~2~~ 1 of the
4 year in which a federal decennial census is conducted.

5 SECTION 59. IC 36-4-3-15.5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
7 Sec. 15.5. (a) Except as provided in subsection (b), an owner of land
8 within one-half (1/2) mile of territory proposed to be annexed under
9 this chapter may, not later than sixty (60) days after the publication of
10 the annexation ordinance, appeal that annexation to a circuit court or
11 superior court of a county in which the annexed territory is located. The
12 complaint must state that the reason the annexation should not take
13 place is that the territory sought to be annexed is not contiguous to the
14 annexing municipality.

15 (b) This subsection applies to an annexation initiated by property
16 owners under section 5.1 of this chapter in which all property owners
17 within the area to be annexed petition the municipality to be annexed.
18 An owner of land within one-half (1/2) mile of the territory proposed
19 to be annexed under this chapter may, not later than thirty (30) days
20 after the publication of the annexation ordinance, appeal that
21 annexation to a circuit court or superior court of a county in which the
22 annexed territory is located. The complaint must state that the reason
23 the annexation should not take place is that the territory sought to be
24 annexed is not contiguous to the annexing municipality.

25 (c) Upon the determination of the court that the complaint is
26 sufficient, the judge shall fix a time for a hearing to be held not later
27 than sixty (60) days after the determination. Notice of the proceedings
28 shall be served by summons upon the proper officers of the annexing
29 municipality. The municipality shall become a defendant in the cause
30 and be required to appear and answer. The judge of the circuit or
31 superior court shall, upon the date fixed, proceed to hear and determine
32 the appeal without a jury, and shall, without delay, give judgment upon
33 the question of the annexation according to the evidence introduced by
34 the parties. If the evidence establishes that the territory sought to be
35 annexed is contiguous to the annexing municipality, the court shall
36 deny the appeal and dismiss the proceeding. If the evidence does not
37 establish the foregoing factor, the court shall issue an order to prevent
38 the proposed annexation from taking effect. The laws providing for

1 change of venue from the county do not apply, but changes of venue
 2 from the judge may be had. Costs follow judgment. Pending the appeal,
 3 and during the time within which the appeal may be taken, the territory
 4 sought to be annexed is not a part of the annexing municipality.

5 (d) If the court enters a judgment in favor of the municipality, the
 6 annexation may not take effect during the year preceding a year in
 7 which a federal decennial census is conducted. An annexation that
 8 would otherwise take effect during the year preceding a year in which
 9 a federal decennial census is conducted takes effect January ~~2~~ **1** of the
 10 year in which a federal decennial census is conducted.

11 SECTION 60. IC 36-4-3-19 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 13 Sec. 19. (a) If disannexation is ordered under this chapter by the works
 14 board of a municipality and no appeal is taken, the clerk of the
 15 municipality shall, without compensation and not later than ten (10)
 16 days after the order is made, make and certify a complete transcript of
 17 the disannexation proceedings to the auditor of each county in which
 18 the disannexed lots or lands lie and to the office of the secretary of
 19 state. The county auditor shall list those lots or lands appropriately for
 20 taxation. The proceedings of the works board shall not be certified to
 21 the county auditor or to the office of the secretary of state if an appeal
 22 to the circuit court has been taken.

23 (b) In all proceedings begun in or appealed to the circuit court, if
 24 vacation or disannexation is ordered, the clerk of the court shall
 25 immediately after the judgment of the court, or after a decision on
 26 appeal to the supreme court or court of appeals if the judgment on
 27 appeal is not reversed, certify the judgment of the circuit court, as
 28 affirmed or modified, to each of the following:

29 (1) The auditor of each county in which the lands or lots affected
 30 lie, on receipt of one dollar (\$1) for the making and certifying of
 31 the transcript from the petitioners for the disannexation.

32 (2) The office of the secretary of state.

33 (3) The circuit court clerk of each county in which the lands or
 34 lots affected are located.

35 (4) The county election board of each county in which the lands
 36 or lots affected are located.

37 (5) If a board of registration exists, the board of each county in
 38 which the lands or lots affected are located.

- 1 (6) The office of census data established by IC 2-5-1.1-12.2.
- 2 (c) The county auditor shall forward a list of lots or lands
3 disannexed under this section to the following:
- 4 (1) The county highway department of each county in which the
5 lands or lots affected are located.
- 6 (2) The county surveyor of each county in which the lands or lots
7 affected are located.
- 8 (3) Each plan commission, if any, that lost or gained jurisdiction
9 over the disannexed territory.
- 10 (4) The township trustee of each township that lost or gained
11 jurisdiction over the disannexed territory.
- 12 (5) The sheriff of each county in which the lands or lots affected
13 are located.
- 14 (6) The office of the secretary of state.
- 15 (7) The office of census data established by IC 2-5-1.1-12.2.
- 16 The county auditor may require the clerk of the municipality to furnish
17 an adequate number of copies of the list of disannexed lots or lands or
18 may charge the clerk a fee for photoreproduction of the list.
- 19 (d) A disannexation described by this section takes effect upon the
20 clerk of the municipality filing the order with:
- 21 (1) the county auditor of each county in which the annexed
22 territory is located; and
- 23 (2) the circuit court clerk, or if a board of registration exists, the
24 board of each county in which the annexed territory is located.
- 25 (e) The clerk of the municipality shall notify the office of the
26 secretary of state and the office of census data established by
27 IC 2-5-1.1-12.2 of the date a disannexation is effective under this
28 chapter.
- 29 (f) A disannexation order under this chapter may not take effect
30 during the year preceding a year in which a federal decennial census is
31 conducted. A disannexation order that would otherwise take effect
32 during the year preceding a year in which a federal decennial census is
33 conducted takes effect January 2 1 of the year in which a federal
34 decennial census is conducted.
- 35 SECTION 61. IC 36-4-3-23 IS ADDED TO THE INDIANA CODE
36 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
37 JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 23. Notwithstanding**
38 **sections 7, 12, 15.5, and 19 of this chapter, as those sections existed**

1 **on December 31, 2009, an annexation or disannexation that took**
 2 **effect January 2, 2010, because of the application of section 7(b),**
 3 **12(b), 15.5(d), or 19(f) of this chapter, as those sections existed on**
 4 **December 31, 2009, is instead considered to take effect January 1,**
 5 **2010, without the adoption of an amended ordinance or the entry**
 6 **of an amended judgment or order under this chapter."**

7 Page 71, between lines 10 and 11, begin a new paragraph and insert:

8 "SECTION 63. IC 36-5-1-10.1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

10 Sec. 10.1. (a) Except as provided in subsection (g), if the county
 11 executive makes the findings required by section 8 of this chapter, it
 12 may adopt an ordinance incorporating the town. The ordinance must:

13 (1) provide that:

14 (A) all members of the town legislative body are to be elected
 15 at large (if the town would have a population of less than three
 16 thousand five hundred (3,500); or

17 (B) divide the town into not less than three (3) nor more than
 18 seven (7) districts; and

19 (2) direct the county election board to conduct an election in the
 20 town on the date of the next general or municipal election to be
 21 held in any precincts in the county.

22 An election conducted under this section must comply with IC 3
 23 concerning town elections. If, on the date that an ordinance was
 24 adopted under this section, absentee ballots for a general or municipal
 25 election have been delivered under IC 3-11-4-15 for voters within a
 26 precinct in the town, the election must be conducted on the date of the
 27 next general or municipal election held in any precincts in the county
 28 after the election for which absentee balloting is being conducted.
 29 However, a primary election may not be conducted before an election
 30 conducted under this section, regardless of the population of the town.

31 (b) Districts established by an ordinance adopted under this section
 32 must comply with IC 3-11-1.5.

33 (c) If any territory in the town is not included in one (1) of the
 34 districts established under this section, the territory is included in the
 35 district that:

36 (1) is contiguous to that territory; and

37 (2) contains the least population of all districts contiguous to that
 38 territory.

1 (d) If any territory in the town is included in more than one (1) of
 2 the districts established under this section, the territory is included in
 3 the district that:

4 (1) is one (1) of the districts in which the territory is described in
 5 the ordinance adopted under this section;

6 (2) is contiguous to that territory; and

7 (3) contains the least population of all districts contiguous to that
 8 territory.

9 (e) Except as provided in subsection (f), an ordinance adopted under
 10 this section becomes effective when filed with:

11 (1) the office of the secretary of state; and

12 (2) the circuit court clerk of each county in which the town is
 13 located.

14 (f) An ordinance incorporating a town under this section may not
 15 take effect during the year preceding a year in which a federal
 16 decennial census is conducted. An ordinance under this section that
 17 would otherwise take effect during the year preceding a year in which
 18 a federal decennial census is conducted takes effect January 2¹ of the
 19 year in which a federal decennial census is conducted.

20 (g) Proceedings to incorporate a town across county boundaries
 21 must have the approval of the county executive of each county that
 22 contains a part of the proposed town. Each county that contains a part
 23 of the proposed town must adopt identical ordinances providing for the
 24 incorporation of the town.

25 **(h) Notwithstanding subsection (f) as that subsection existed on**
 26 **December 31, 2009, an ordinance that took effect January 2, 2010,**
 27 **because of the application of subsection (f), as that subsection**
 28 **existed on December 31, 2009, is instead considered to take effect**
 29 **January 1, 2010, without the adoption of an ordinance or an**
 30 **amended ordinance or any other additional action being required.**

31 SECTION 64. IC 36-5-1-18 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 33 Sec. 18. (a) If at least two-thirds (2/3) of the votes cast in an election
 34 under section 16 of this chapter are affirmative, and at least four-fifths
 35 (4/5) of all the voters listed in the census voted in the election, the
 36 dissolution or change of name takes effect in the manner prescribed by
 37 this section.

38 (b) A change of name takes effect thirty (30) days after the filing of

1 the statement required by section 17 of this chapter.

2 (c) Except as provided in subsection (d), a dissolution takes effect
3 six (6) months after the filing of the statement required by section 17
4 of this chapter. The property owned by the town after payment of debts
5 and liabilities shall be disposed of in the manner chosen by a majority
6 of the voters of the town at a special election for that purpose.
7 Dissolution of a town does not affect the validity of a contract to which
8 the town is a party.

9 (d) A dissolution under this chapter may not take effect during the
10 year preceding a year in which a federal decennial census is conducted.
11 A dissolution that would otherwise take effect during the year
12 preceding a year in which a federal decennial census is conducted takes
13 effect January 2 1 of the year in which a federal decennial census is
14 conducted.

15 **(e) Notwithstanding subsection (d) as that subsection existed on**
16 **December 31, 2009, a dissolution that took effect January 2, 2010,**
17 **because of the application of subsection (d), as that subsection**
18 **existed on December 31, 2009, is instead considered to take effect**
19 **January 1, 2010, without any additional action being required.**

20 SECTION 65. IC 36-5-1.1-9 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
22 Sec. 9. (a) A person aggrieved by a decision made by the county
23 executive under section 6 of this chapter may, within thirty (30) days,
24 appeal that decision or result to the circuit court for the county
25 containing more than fifty percent (50%) in assessed valuation of the
26 land in the town. The appeal is instituted by giving written notice to the
27 clerk of the circuit court and filing with the county executive a bond for
28 five hundred dollars (\$500), with surety approved by the county
29 executive. The bond must provide:

- 30 (1) that the appeal will be duly prosecuted; and
31 (2) that the appellants will pay all costs if the appeal is decided
32 against them.

33 (b) When an appeal is instituted, the county executive shall file with
34 the clerk of the circuit court a transcript of all proceedings in the case,
35 together with all papers filed in the case. The county executive may not
36 take further action in the case until the appeal is heard and determined.

37 (c) An appeal under this section shall be heard by the circuit court
38 without a jury. Change of venue from the judge may be granted, but

1 change of venue from the county may not be granted. If the court orders
 2 the dissolution to take place, the circuit court clerk shall, immediately
 3 after the judgment of the court, certify the judgment of the circuit court
 4 to:

- 5 (1) the clerk of the municipality;
- 6 (2) the circuit court clerk of any other county in which the town
 7 is located; and
- 8 (3) the office of the secretary of state.

9 (d) Except as provided in subsection (e), the dissolution takes effect
 10 sixty (60) days after the order is certified.

11 (e) A dissolution under this section may not take effect during the
 12 year preceding a year in which a federal decennial census is conducted.
 13 A dissolution under this section that would otherwise take effect during
 14 the year preceding the year in which the federal decennial census is
 15 conducted takes effect January 2 of the year in which a federal
 16 decennial census is conducted.

17 **(f) Notwithstanding subsection (e) as that subsection existed on**
 18 **December 31, 2009, a dissolution that took effect January 2, 2010,**
 19 **because of the application of subsection (e), as that subsection**
 20 **existed on December 31, 2009, is instead considered to take effect**
 21 **January 1, 2010, without any additional action being required.**

22 SECTION 66. IC 36-5-1.1-10 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 24 Sec. 10. (a) If the county executive approves dissolution under section
 25 6 of this chapter, the county executive shall adopt:

- 26 (1) an ordinance; or
- 27 (2) an order in a county having a consolidated city;

28 dissolving the town.

29 (b) Except as provided in subsection (e), a dissolution takes effect:

- 30 (1) at least sixty (60) days after the ordinance or order under
 31 subsection (a) is adopted; and
- 32 (2) when the county auditor files a copy of the ordinance or order
 33 with:

- 34 (A) the circuit court clerk of each county in which the town is
 35 located; and
- 36 (B) the office of the secretary of state.

37 (c) The property owned by the town after payment of debts and
 38 liabilities shall be disposed of by the county executive. Any proceeds

1 remaining shall be deposited in the county general fund. Dissolution of
 2 a town does not affect the validity of a contract to which the town is a
 3 party.

4 (d) After dissolution, the books and records of the town become the
 5 property of the county executive for safekeeping.

6 (e) A dissolution under this section may not take effect during the
 7 year preceding a year in which a federal decennial census is conducted.
 8 A dissolution under this section that would otherwise take effect during
 9 the year preceding a year in which a federal decennial census is
 10 conducted takes effect January 2 1 of the year in which a federal
 11 decennial census is conducted.

12 **(f) Notwithstanding subsection (e) as that subsection existed on**
 13 **December 31, 2009, a dissolution that took effect January 2, 2010,**
 14 **because of the application of subsection (e), as that subsection**
 15 **existed on December 31, 2009, is instead considered to take effect**
 16 **January 1, 2010, without any additional action being required.**

17 SECTION 67. IC 36-5-1.1-10.5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 19 Sec. 10.5. (a) This section applies to the dissolution of an included
 20 town.

21 (b) The town legislative body may adopt a resolution to consider
 22 dissolution of the town under this section. The resolution must state the
 23 following:

24 (1) That the town legislative body conduct a public hearing at a
 25 stated date, place, and time concerning the dissolution of the
 26 town.

27 (2) That the town legislative body will hear all statements
 28 presented in favor of or in opposition to dissolution.

29 (3) That the town legislative body may adopt an ordinance to
 30 dissolve the town at the conclusion of the public hearing.

31 (c) The town clerk shall publish a notice of the public hearing in
 32 accordance with IC 5-3-1.

33 (d) The town legislative body may continue a public hearing under
 34 this section. If a hearing is continued, the clerk is not required to
 35 publish an additional notice under subsection (c).

36 (e) The town legislative body may adopt an ordinance following the
 37 conclusion of the public hearing under subsection (b). The town clerk
 38 shall file a copy of the ordinance with:

- 1 (1) the circuit court clerk of the county; and
 2 (2) the office of the secretary of state.
- 3 (f) Except as provided in subsection (g), the ordinance dissolving
 4 the town takes effect:
 5 (1) at least sixty (60) days after adoption; and
 6 (2) when the ordinance is filed under subsection (e).
- 7 (g) A dissolution under this section may not take effect during the
 8 year preceding a year in which a federal decennial census is conducted.
 9 A dissolution under this section that would otherwise take effect during
 10 the year preceding a year in which the federal decennial census is
 11 conducted takes effect January 2 of the year in which a federal
 12 decennial census is conducted.
- 13 (h) When an ordinance dissolving a town becomes effective:
 14 (1) the territory included within the town when the ordinance was
 15 adopted becomes a part of the consolidated city;
 16 (2) the books and records of the town become the property of the
 17 county executive;
 18 (3) the property owned by the town after payment of debts and
 19 liabilities shall be disposed of by the county executive; and
 20 (4) the county executive shall deposit any proceeds remaining
 21 after payment of debts and liabilities into the county general fund.
- 22 (i) The dissolution of a town under this section does not affect the
 23 validity of a contract to which the town is a party.
- 24 **(j) Notwithstanding subsection (g) as that subsection existed on**
 25 **December 31, 2009, a dissolution that took effect January 2, 2010,**
 26 **because of the application of subsection (g), as that subsection**
 27 **existed on December 31, 2009, is instead considered to take effect**
 28 **January 1, 2010, without any additional action being required.**
- 29 SECTION 68. IC 36-5-1.1-10.6 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 31 Sec. 10.6. (a) This section applies to included towns.
- 32 (b) The dissolution of a town under this section may be instituted by
 33 filing a petition with the county board of registration. The petition must
 34 be signed by at least the number of the registered voters of the town
 35 required to place a candidate on the ballot under IC 3-8-6-3. The
 36 petition must be filed not later than June 1 of a year in which a general
 37 or municipal election will be held.
- 38 (c) If a petition meets the criteria set forth in subsection (b), the

1 county board of registration shall certify the public question to the
 2 county election board under IC 3-10-9-3. The county election board
 3 shall place the question of dissolution on the ballot provided for voters
 4 in the included town at the first general or municipal election following
 5 certification. The question shall be placed on the ballot in the form
 6 prescribed by IC 3-10-9-4 and must state "Shall the town of _____
 7 dissolve?".

8 (d) If the public question is approved by a majority of the voters
 9 voting on the question, the county election board shall file a copy of the
 10 certification prepared under IC 3-12-4-9 concerning the public question
 11 described by this section with the following:

12 (1) The circuit court clerk of the county.

13 (2) The office of the secretary of state.

14 (e) Except as provided in subsection (f), dissolution occurs:

15 (1) at least sixty (60) days after certification under IC 3-12-4-9;
 16 and

17 (2) when the certification is filed under subsection (d).

18 (f) A dissolution under this section may not take effect during the
 19 year preceding a year in which a federal decennial census is conducted.
 20 A dissolution under this section that would otherwise take effect during
 21 the year preceding a year in which the federal decennial census is
 22 conducted takes effect January 2 of the year in which a federal
 23 decennial census is conducted.

24 (g) When a town is dissolved under this section:

25 (1) the territory included within the town when the ordinance was
 26 adopted becomes a part of the consolidated city;

27 (2) the books and records of the town become the property of the
 28 county executive;

29 (3) the property owned by the town after payment of debts and
 30 liabilities shall be disposed of by the county executive; and

31 (4) the county executive shall deposit any proceeds remaining
 32 after payment of debts and liabilities into the county general fund.

33 (h) The dissolution of a town under this section does not affect the
 34 validity of a contract to which the town is a party.

35 **(i) Notwithstanding subsection (f) as that subsection existed on**
 36 **December 31, 2009, a dissolution that took effect January 2, 2010,**
 37 **because of the application of subsection (f), as that subsection**
 38 **existed on December 31, 2009, is instead considered to take effect**

1 **January 1, 2010, without any additional action being required.**

2 SECTION 69. IC 36-6-1-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
4 Sec. 3. (a) When part of a township is owned by the state or the United
5 States, devoted to a public use, and withdrawn from taxation for local
6 purposes, and:

7 (1) less than eighteen (18) square miles of the township remains
8 subject to taxation; or

9 (2) the township is divided into two (2) or more separate sections
10 by the government owned part;

11 the county executive may issue an order to alter the boundaries of the
12 township and adjoining townships on receipt of a petition signed by at
13 least thirty-five percent (35%) of the resident freeholders of a part of
14 the township adjoining another township.

15 (b) Except as provided in subsection (c), a boundary alteration under
16 this section is effective when a copy of the order is filed with:

17 (1) the circuit court clerk; and

18 (2) the office of the secretary of state.

19 (c) A boundary alteration under this section may not take effect
20 during the year preceding a year in which a federal decennial census is
21 conducted. A boundary alteration that would otherwise take effect
22 during the year preceding a year in which a federal decennial census is
23 conducted takes effect January 2 1 of the year in which a federal
24 decennial census is conducted.

25 **(d) Notwithstanding subsection (c) as that subsection existed on**
26 **December 31, 2009, a boundary alteration that took effect January**
27 **2, 2010, because of the application of subsection (c), as that**
28 **subsection existed on December 31, 2009, is instead considered to**
29 **take effect January 1, 2010, without any additional action being**
30 **required."**

31 Page 102, after line 42, begin a new paragraph and insert:

32 "SECTION 77. P.L.182-2009(ss), SECTION 479, IS AMENDED
33 TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2009
34 (RETROACTIVE)]: SECTION 479. (a) **IC 1-1-5-10 does not apply**
35 **to this SECTION.**

36 ~~(a)~~ (b) This SECTION applies to:

37 (1) an entity that:

38 **(A) is operated as a nonprofit entity; and**

- 1 **(B)** failed, for an assessment date after March 1, 2000, to:
- 2 ~~(A)~~ **(i)** file a timely application under IC 6-1.1-11 for an
- 3 exemption under IC 6-1.1-10-16; or
- 4 ~~(B)~~ **(ii)** accompany a timely filed application for an
- 5 exemption under IC 6-1.1-10-16 with sufficient information
- 6 for the county property tax assessment board of appeals to
- 7 determine whether the applicant was eligible for an
- 8 exemption under IC 6-1.1-10-16, as specified on a response
- 9 from the county assessor or property tax assessment board
- 10 of appeals; and
- 11 (2) any part of the entity's property that would have qualified for
- 12 an exemption under IC 6-1.1-10-16 as property owned, occupied,
- 13 and predominately used for a charitable purpose, if the omissions
- 14 described in subdivision (1) had not occurred.
- 15 ~~(b)~~ **(c)** Notwithstanding IC 6-1.1-11 or any other law, an entity
- 16 described in subsection ~~(a)~~ **(b)** may, before September 1, 2009, file or
- 17 refile with the county assessor an application for a property tax
- 18 exemption under IC 6-1.1-10-16 for an assessment date occurring after
- 19 March 1, 2000, and before March 1, 2010.
- 20 ~~(c)~~ **(d)** Notwithstanding IC 6-1.1-11 or any other law, an application
- 21 for a property tax exemption that is filed under subsection ~~(b)~~ **(c)** is
- 22 considered to be timely filed for the assessment date for which it is
- 23 filed, and the county assessor shall forward the application to the
- 24 county property tax assessment board of appeals for review or
- 25 reconsideration. The board shall grant an exemption claimed under this
- 26 SECTION for the assessment date covered by the application if, after
- 27 reviewing all of the information submitted by the applicant, the board
- 28 determines that:
- 29 (1) the entity's application for a property tax exemption satisfies
- 30 the requirements of this SECTION; and
- 31 (2) except for the omissions described in subsection ~~(a)~~ **(b)**, part
- 32 or all of the entity's property would otherwise have qualified for
- 33 an exemption under IC 6-1.1-10-16 for the assessment date
- 34 covered by the application.
- 35 IC 6-1.1-11-7 and IC 6-1.1-15-3 apply to a determination under this
- 36 SECTION.
- 37 ~~(d)~~ **(e)** Notwithstanding IC 6-1.1-22-9 or any other law, if an
- 38 exemption application is filed or refiled under this SECTION and an

1 exemption under IC 6-1.1-10 had been granted for the property for
2 property taxes first due and payable for any year after 1999, any unpaid
3 taxes imposed on property and for a year covered by an exemption
4 application are not due until thirty (30) days after the date the
5 applicant's eligibility for the exemption under this SECTION is finally
6 adjudicated and determined and a revised tax statement under
7 IC 6-1.1-22-8.1 that reflects the final determination concerning the
8 exemption application is delivered to the owner. During the pendency
9 of the proceedings concerning an exemption application under this
10 SECTION, no action under IC 6-1.1-24 or another law may be taken to
11 collect the unpaid taxes for a year covered by the exemption
12 application, including any action to sell the property at a tax sale. If an
13 entity is granted an exemption or a partial exemption under this
14 SECTION, any unpaid property tax liability, including interest, for the
15 entity's property shall be canceled by the county auditor and the county
16 treasurer to the extent of the exemption, and, notwithstanding
17 IC 6-1.1-26-1, if the entity has previously paid the tax liability for
18 property with respect to the assessment date covered by the application,
19 the county auditor shall issue a refund of the property tax paid by the
20 entity to the extent of the exemption. No interest or penalty shall be
21 imposed on any tax liability remaining after the application of the
22 exemption for any period before the taxes are due as provided in this
23 subsection. An entity is not required to apply for any refund due under
24 this SECTION. The county auditor shall, without an appropriation
25 being required, issue a warrant to the entity payable from the county
26 general fund for the amount of the refund, if any, due the entity. No

- 1 interest is payable on the refund.
- 2 ~~(e)~~ (f) This SECTION expires January 1, 2010."
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 239 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

Hershman

Chairperson