

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7072

BILL NUMBER: SB 405

NOTE PREPARED: Jan 1, 2011

BILL AMENDED:

SUBJECT: Township Government.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

County Fiscal Body: It specifies that in each county after December 31, 2012: (1) the county fiscal body is the fiscal body and legislative body of each township in the county; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds.

Township Boards Abolished: It provides that on January 1, 2015, township boards are abolished in each county. The bill provides that after December 31, 2012: (1) the township board's only responsibility is to formulate a proposed annual budget, levies, and rate for submission to the county fiscal body; and (2) the county fiscal body may reduce and modify but not increase the budget submitted by the township board in formulating the final proposed township budget, levies, and rate.

Annual Township Budget: The bill requires in formulating an annual township budget that consideration be given to the ending balance that will remain in each township fund relative to: (1) the budgeted expenditures from the fund; (2) the fund balance that must be maintained by the township due to delayed property tax collections; and (3) the amount of tax anticipation notes or warrants or other obligations incurred by the township due to delayed property tax collections.

Excessive Funds: It provides that if the township board (before January 1, 2013) or the county fiscal body (after December 31, 2012) determines that the ending balance in a township fund is excessive (after considering certain specified factors), the township board or county fiscal body shall transfer the excessive amount to the township's levy excess fund.

Township Budget Limits: It specifies that for township budgets adopted for 2012 and 2013, the total amount appropriated for a particular year may not exceed the result of: (1) the total amount appropriated for the previous year; multiplied by (2) the assessed value growth quotient applicable to the township for the particular year. The bill also provides that if a township board or (after December 31, 2012) a county fiscal body determines after a public hearing that the township cannot carry out its governmental functions for a year under these appropriation limitations, the county fiscal body may appeal to the Department of Local Government Finance (DLGF) for relief from the appropriation limitations for the year.

Capital Improvement: After December 31, 2012, the bill requires the county fiscal body to consider with regard to a cumulative building fund or capital improvement fund, the township's capital improvement plan. It requires the DLGF to consider those issues when reviewing a township's budget, tax rate, and tax levy. It also provides that after December 31, 2012, a township may only collect property taxes for a capital improvement fund in a particular year, if the township trustee prepares and the county fiscal body approves a proposed or amended capital improvement plan in the immediately preceding year.

Reorganizing Townships: The bill provides that if a township reorganizes with at least one other township, and the resulting new political subdivision is not a city or town, after December 31, 2012, the county fiscal body is the fiscal body of the new political subdivision.

Township Assistance Planning Board: The bill establishes a township assistance planning board (board) in each county to prepare a county plan (plan) for creating countywide township assistance standards. It provides that the board annually reviews and updates the county's township assistance standards. It requires the plan and township assistance standards to be adopted by the county fiscal body.

Nepotism: The bill specifies that an individual who is a relative of the township trustee may not be employed by the township. It also provides that an individual who is a relative of an employee of a township may not be employed in a position in which the individual would have a direct supervisory or subordinate relationship with the employee who is the individual's relative. The bill specifies that until January 1, 2015, this provision does not require the termination or reassignment of a township employee from a position held by that individual before July 1, 2011. It prohibits a township from entering into or renewing contracts with certain individuals or firms.

Office of Management and Budget: The bill requires the Office of Management and Budget (OMB) to annually prepare a report that includes certain information regarding each township. It requires the report to be submitted to the Executive Director of the Legislative Services Agency and to county councils.

Township Offices: The bill specifies that each township office must include the address, phone number, and regular office hours (if any) of the township office in at least one local telephone directory.

Township Assistance Standards: The bill requires the county fiscal body after December 31, 2012, to adopt township assistance standards for all townships in the county.

Township Meetings and Hearings: It requires a public meeting or a public hearing of a township official or governing body to be held in a public place.

Township Trustee's Annual Report: The bill requires a township trustee's annual report to list separately each expenditure that is made to reimburse the township trustee for the township trustee's use of tangible property (real and personal property) for public business, including any reimbursements made for the use of a private

residence, personal telephone, or personal vehicle for public business.

Township Assistance Applications: It provides that if a trustee does not: (1) accept a completed application for township assistance; or (2) grant or deny a completed application for township assistance within the period required by statute; the application is considered denied, and the denial may be appealed to the board of county commissioners.

Certification: The bill provides that the annual report filed by a township with the State Board of Accounts (SBOA) must include a statement by the township trustee certifying that the township is in compliance with the nepotism provisions, and it provides that if the township is not in compliance: (1) the township trustee may be subject to prosecution for perjury; and (2) the DLGF may not approve the township's budget or additional appropriations for the ensuing calendar year until the state board of accounts certifies to the DLGF that the township is in compliance.

Township Budget Approval: It provides that the DLGF may not approve the budget or any additional appropriations of a township that fails to file: (1) an annual fiscal report; or (2) a personnel report; for the preceding year.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Department of Local Government Finance (DLGF):* The bill is expected to have minimal fiscal impact for the DLGF when reviewing township budgets, tax rates, and tax levies in order to consider the ending balance, and to receive appeals from townships.

Office of Management and Budget (OMB): The bill may increase costs for the OMB to prepare and report on township annual reports with additional information. Under current law, the township provides information on fund balances to the SBOA. This information is compiled into a report at the SBOA main office using support staff. Under the bill, a township is to prepare any information required by the report and not currently reported on the schedule established by the SBOA.

Penalty Provision: A township trustee would be subject to being convicted for perjury, a Class D felony, for falsely certifying that the township is in compliance with nepotism provisions established under the bill. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background - State Board of Accounts: Currently, the SBOA prepares an annual report concerning the townships using information provided to the SBOA by the township trustee. However, the SBOA indicates that 100 townships (10%) did not file the required 2009 report. The SBOA also prepares a biennial examination report of the townships. The SBOA would continue to receive the information and OMB would prepare the annual report for the preceding calendar year, including the current information and the following:

- The population of the township.

- The budget, property tax levels, and property tax rates.
- The assessed valuation.
- The balance in each township fund.
- A summary of township assistance information.
- A summary of any statutory compliance issues or exceptions.
- A description of any interlocal agreements.
- A description of any resolutions or petitions concerning the township.
- A description of the property owned or leased by the township.

Also, the bill prohibits the DLGF from approving the budget or additional appropriation of a township that fails to file an SBOA report or that fails to certify to SBOA that the township is in compliance with provisions concerning the employment of relatives and contracting with relatives.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: The bill will increase costs for counties by making the county fiscal body the township fiscal and legislative body. County councils may require additional meeting time to establish budgets, consider resolutions, and adopt plans for capital improvements. However, cost savings may result from the elimination of the three-member township boards (in counties outside of Marion County) or seven-member township boards (in Marion County). [Note: Township trustees would remain in place.]

Additionally, the county executive of each county will appoint a nine-member township assistance planning board to adopt county-wide standards for township assistance that meet at least the minimum standards set in statute. The county fiscal body will determine the compensation of the board members, and the board is considered a public body for Open Door Law and access to public records purposes.

Minimal increased costs for township reporting may also occur for the township trustee to collect and report to the OMP additional information such as the township population, as well as a separate listing of reimbursement to the township executive for use of tangible property such as a private residence, telephone, or vehicle. The bill requires a public meeting or hearing of a township official or governing body to be held in a public place, which would disallow use of a private residence for township meetings. This, in certain circumstances, may increase costs. Additionally, the bill could impact costs to townships that have to make changes in personnel due to familial relationships or marriages, or for contractual goods and services because a contract is with an individual who is a relative of the township trustee, or is with a business owned by a relative of the township trustee.

Township Budgets: Under current law, the levy for a controlled fund may grow at the rate of the income-based assessed value growth quotient (AVGQ). Budget appropriations, however, are only limited to the total funding that is available. Under the bill, a township's total budget appropriation (including additional appropriations) for CY 2012 and CY 2013, would be limited to the previous year's appropriation plus growth equal to the AVGQ. Current estimates for the AVGQ are 2.8% in both CY 2012 and CY 2013. A township that cannot function under the appropriation limitations imposed by the bill may appeal to the DLGF for relief.

Total CY 2010 appropriations in all township funds were \$415 M in 91 counties with available data

(excluding LaPorte County). The average annual increase in budget appropriations from CY 2005 to CY 2010 was 1.57%. There were 524 townships with growth above 2.8%. This provision could reduce the appropriations in some townships as compared to the appropriations under current law.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Background: There are a total of 1,008 townships in Indiana, with 9 townships in Marion County having seven-member township boards and 999 outside of Marion County having three-member township boards. The number of townships per county varies between 4 and 21, with the largest number of counties having 12 townships.

There are an estimated 3,060 township board members statewide. Currently, the township board is the legislative body of the township, and the township trustee is the township executive. The legislative body of a township fixes the salaries for the members of the township board. There is no single, statewide repository of township board member salaries. However, township board compensation for 488 townships was available for review. The salaries range from \$100 to \$33,000 per year, with the statewide median salary being \$522. Since most townships have three township board members, the savings per township would range from \$300 to \$99,000, and most townships would save on average \$1,566. Statewide savings, based on the calculation of township board members and median compensation, would be \$1.6 M.

While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county legislative and fiscal bodies that undertake additional responsibilities from the township boards.

The compensation of the township assistance planning board will be set by the county fiscal body, as well. The members of the board include a trustee from an unincorporated area, a trustee from an incorporated area, one person each employed by human services agency faith-based, government-funded, and nonprofit human services, one member of the county fiscal body, and one member of the fiscal body of the municipality with the largest population.

Explanation of Local Revenues: *Excess Balance:* Under this proposal, the township board or the county fiscal body must determine whether a fund balance is excessive based on the budgeted expenditures from the fund; balances needed on account of actual or anticipated delayed property tax billing, collection, or distribution; and the amount needed for tax anticipation notes, warrants, or other obligations incurred on account of delayed property tax billing, collection, or distribution. After December 31, 2012, excess fund balances contained in cumulative and capital projects funds would be based on the capital improvement plan. Any excessive amount is transferred to the township's levy excess fund. [With certain exceptions, the money in a levy excess fund may be used for any lawful purpose for which money from other township funds may be used, provided it is included in the township's budget.]

Township Budget: The bill requires that the appropriation for a township budget may not exceed the previous year's appropriation multiplied by the assessed value growth quotient 2012 and 2013. The township board may appeal for relief from the limitation to the DLGF after a public hearing is held. Also, if the required information for SBOA and OMB is not reported or the certifications concerning nepotism not completed, the DLGF may not approve the township budget.

Capital Improvement Plan: Beginning in CY 2013 under this provision, townships would be required to prepare a capital improvement plan that would estimate expenditures from, and revenues to, the various township cumulative funds for at least three years after the plan is adopted. Townships would not be able to collect property taxes for a cumulative fund without an approved plan.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: DLGF; OMB, SBOA, Department of Correction.

Local Agencies Affected: Counties and townships, trial courts, local law enforcement agencies.

Information Sources: Local Government Database, DLGF.

Fiscal Analyst: Karen Firestone, 317-234-2106; Bob Sigalow, 317-232-9859.