

HOUSE BILL No. 1227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1; IC 36-6-1-6.

Synopsis: Establishing a new township. Provides that if a municipality's petition for transfer of its territory from its current township to an adjacent township is rejected or not accepted by an adjacent township, the municipality may establish a new township consisting of the territory within the municipality. Requires the municipality to prepare a comprehensive plan and fiscal impact analysis regarding the new township. Requires the department of local government finance to review and comment on the fiscal impact analysis. Requires the new township to be governed by the municipality's executive (a mayor for a city, the president of the town council for a town) exercising the duties of a township trustee and the municipality's legislative and fiscal body exercising the duties of a township board. Repeals a provision that provides that the transfer of territory of a municipality to an adjacent township may not take effect in the year preceding a decennial census.

Effective: Upon passage.

Chyung

January 10, 2019, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1227

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-1-1.5-9, AS ADDED BY P.L.234-2013,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 9. The following apply if at least two-thirds
4 (2/3) of the voters voting in a special election under this chapter vote
5 "yes" on the public question under this chapter:
6 (1) The legislative body of the eligible municipality may, within
7 one (1) year after the special election, submit a petition to one (1)
8 or more adjacent townships requesting an adjacent township to
9 accept the transfer of the territory of the eligible municipality that
10 is within the transferor township.
11 (2) The legislative body of an adjacent township that receives a
12 petition under subdivision (1) may adopt a resolution accepting
13 the transfer of the territory of the eligible municipality that is
14 within the transferor township and specifying the date on which
15 the transfer is effective. However, the legislative body of the
16 adjacent township may adopt a resolution accepting the transfer
17 of the territory of the eligible municipality only within the one (1)



1 year period following the date on which the legislative body
2 receives the petition.

3 (3) If the legislative body of the eligible municipality submits a
4 petition to one (1) or more adjacent townships under subdivision
5 (1) within one (1) year after the special election, but a resolution
6 accepting the transfer of the territory of the eligible municipality
7 within the transferor township is not adopted by the legislative
8 body of an adjacent township within the one (1) year period
9 following the date on which the last legislative body of a township
10 receives such a petition **or the legislative body of an adjacent**
11 **township adopts a resolution rejecting transfer of the**
12 **territory of the eligible municipality:**

13 (A) the territory of the eligible municipality may not be
14 transferred **to an adjacent township** under this chapter; ~~and~~

15 (B) a subsequent special election under this chapter may not
16 be held in the eligible municipality; **and**

17 **(C) the territory of the eligible municipality may be**
18 **transferred to a new township established under**
19 **IC 36-1-1.6.**

20 (4) If the legislative body of the eligible municipality does not
21 submit a petition to one (1) or more adjacent townships under
22 subdivision (1) within one (1) year after the special election:

23 (A) the territory of the eligible municipality may not be
24 transferred under this chapter; and

25 (B) a subsequent special election under this chapter may not
26 be held in the eligible municipality.

27 SECTION 2. IC 36-1-1.5-14 IS REPEALED [EFFECTIVE UPON
28 PASSAGE]. ~~Sec. 14: A transfer of territory under this chapter may not~~
29 ~~take effect during the year preceding a year in which a federal~~
30 ~~decennial census is conducted. A transfer of territory under this chapter~~
31 ~~that would otherwise take effect during the year preceding a year in~~
32 ~~which a federal decennial census is conducted takes effect January 2 of~~
33 ~~the year in which the federal decennial census is conducted.~~

34 SECTION 3. IC 36-1-1.6 IS ADDED TO THE INDIANA CODE
35 AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE
36 UPON PASSAGE]:

37 **Chapter 1.6. Establishment of New Township**

38 **Sec. 1. This chapter applies to a municipality that petitions to**
39 **transfer its territory to an adjacent township under IC 36-6-1.5 if:**

40 **(1) the voters of the municipality voted in favor of the public**
41 **question under IC 36-1-1.5 in 2018 or later; and**

42 **(2) an adjacent township:**



- 1 (A) does not adopt a resolution accepting transfer; or
 2 (B) adopts a resolution that rejects transfer;
 3 of the municipality's territory under IC 36-1-1.5-9(3)(C).
 4 **Sec. 2.** The definitions in IC 36-1-1.5 and IC 36-1-2 apply
 5 throughout this chapter.
 6 **Sec. 3.** (a) A municipality to which this chapter applies may
 7 establish a new township.
 8 (b) If a new township is established, the territory of the
 9 municipality within the transferor township is transferred to and
 10 becomes the territory of the new township. The corporate
 11 boundaries of the municipality shall constitute the service area
 12 within which the new township shall provide township services.
 13 **Sec. 4.** A new township must be governed by:
 14 (1) the municipality's executive, which exercises the executive
 15 and administrative powers and duties assigned in the Indiana
 16 Code or the Indiana Administrative Code to the township
 17 trustee; and
 18 (2) the municipality's legislative and fiscal body, which
 19 exercises the legislative and fiscal powers and duties assigned
 20 in the Indiana Code or the Indiana Administrative Code to
 21 the township board.
 22 **Sec. 5.** The municipality must adopt an ordinance proposing the
 23 establishment of a new township and that incorporates the
 24 comprehensive plan described in section 7 of this chapter. The
 25 ordinance and comprehensive plan must be adopted not later than
 26 one (1) year after the later of the following dates:
 27 (1) The expiration of the one (1) year period following the date
 28 on which the last legislative body of a township receives a
 29 petition from the municipality.
 30 (2) The date that the last legislative body of a township adopts
 31 a resolution rejecting the transfer of the municipality to the
 32 township.
 33 **Sec. 6.** If the municipality does not adopt a comprehensive plan
 34 and ordinance within the time set forth in section 5 of this chapter,
 35 a new township is not established and the territory of the
 36 municipality remains a part of the transferor township.
 37 **Sec. 7.** The comprehensive plan governs the actions, duties, and
 38 powers of the new township and the municipality that are not
 39 specified by law. The comprehensive plan must include at least the
 40 following:
 41 (1) The name of the new township.
 42 (2) A description of the new township government, in



1 accordance with section 4 of this chapter.

2 (3) A description of any liability of the new township for debts
3 and unpaid obligations of the transferor township under
4 section 14 of this chapter.

5 (4) A description of the township services to be offered within
6 the territory of the new township and the service areas in
7 which the services will be offered.

8 (5) Any other matter that the legislative body of the
9 municipality determines is necessary or appropriate to
10 include in the plan of reorganization.

11 (6) The fiscal impact analysis under section 9 of this chapter.

12 **Sec. 8.** The municipality shall post a copy of the comprehensive
13 plan on an Internet web site maintained or authorized by the
14 municipality not more than thirty (30) days after the plan is
15 prepared by the municipal legislative body. If the plan is amended,
16 the municipality shall post the amended plan on the Internet web
17 site maintained or authorized by the municipality not later than
18 seven (7) days after the amended plan is adopted.

19 **Sec. 9. (a)** The legislative body of the municipality must include
20 a fiscal impact analysis of the comprehensive plan. The fiscal
21 impact analysis must include at least the following:

22 (1) The estimated effect on all taxpayers residing within the
23 new township, including the expected tax rates, tax levies,
24 expenditure levels, service levels, and annual debt service
25 payments.

26 (2) A description of the township services to be provided and
27 the method or methods of financing the services. The fiscal
28 impact analysis must:

29 (A) present itemized estimated costs for each department
30 or agency of the new township; and

31 (B) explain how specific and detailed expenses will be
32 funded from taxes, fees, grants, and other funding.

33 (3) A description of any capital improvements to be provided
34 and the method or methods of financing those capital
35 improvements.

36 (b) The fiscal impact analysis shall be submitted to the
37 department of local government finance not later than six (6)
38 months after the commencement of the one (1) year period under
39 section 5 of this chapter. The department of local government
40 finance must do the following not later than forty-five (45) days
41 after the plan is submitted to the department:

42 (1) Review the fiscal impact analysis.



- 1 **(2) Make any comments concerning the fiscal impact analysis**
 2 **that the department considers appropriate.**
 3 **(3) Provide the department's comments under subdivision (2)**
 4 **to the legislative body of the reorganizing municipality and**
 5 **reorganizing township.**
 6 **(4) Post the department's comments under subdivision (2) on**
 7 **the department's Internet web site.**
 8 **The legislative body of the municipality may not adopt an**
 9 **ordinance incorporating the finally adopted comprehensive plan**
 10 **until the department of local government finance has completed its**
 11 **review of the fiscal impact analysis.**
 12 **(c) The department of local government finance shall certify to**
 13 **the eligible municipal legislative body the total amount of expenses**
 14 **incurred by the department in carrying out the department's**
 15 **review and preparation of the department's comment under**
 16 **subsection (b). Upon receipt of the department of local government**
 17 **finance's certification of the expenses, the municipality shall**
 18 **immediately pay to the treasurer of state the amount charged.**
 19 **Money paid by a municipality under this subsection shall be**
 20 **deposited in the fund established under section 10 of this chapter**
 21 **Sec. 10. (a) The department of local government township**
 22 **expense fund is established. The fund consists of amounts deposited**
 23 **by municipalities under section 9 of this chapter. The money in the**
 24 **fund may be used to pay the operating costs of the department of**
 25 **local government finance.**
 26 **(b) The fund shall be administered by the department of local**
 27 **government finance.**
 28 **(c) The expenses of administering the fund shall be paid from**
 29 **money in the fund.**
 30 **(d) The treasurer of state shall invest the money in the fund not**
 31 **currently needed to meet the obligations of the fund in the same**
 32 **manner as other public money may be invested.**
 33 **(e) Any money remaining in the fund at the end of the state**
 34 **fiscal year does not revert to the state general fund.**
 35 **Sec. 11. A municipality may not establish an office of township**
 36 **assessor in the new township.**
 37 **Sec. 12. (a) The new township is established and effective on the**
 38 **later of:**
 39 **(1) the date that the municipality adopts an ordinance**
 40 **incorporating the comprehensive plan; or**
 41 **(2) the date specified in the finally adopted comprehensive**
 42 **plan.**



1 **(b) Any reference in the Indiana Code or the Indiana**
 2 **Administrative Code to:**

3 **(1) the township trustee or township executive shall be**
 4 **considered a reference to the executive of the municipality;**
 5 **and**

6 **(2) the township board or the township legislative and fiscal**
 7 **body shall be considered a reference to the legislative and**
 8 **fiscal body of the municipality.**

9 **(c) Any reference in the Indiana Code or the Indiana**
 10 **Administrative Code to the township shall be considered a**
 11 **reference to the territory within the corporate boundaries of the**
 12 **municipality.**

13 **Sec. 13. (a) Except as provided in subsection (c), if the transferor**
 14 **township is indebted or has outstanding unpaid bonds or other**
 15 **obligations at the time the transfer is effective, the new township**
 16 **to which the territory is transferred is liable for and shall pay that**
 17 **indebtedness in the same ratio as the assessed valuation of the**
 18 **property transferred bears to the assessed valuation of all property**
 19 **in the transferor township, as determined for the last assessment**
 20 **date before the transfer.**

21 **(b) Except as provided in subsection (c), if the indebtedness**
 22 **consists of outstanding unpaid bonds or notes of the transferor**
 23 **township, the payments to the transferor township shall be made**
 24 **as the principal or interest on the bonds or notes becomes due.**
 25 **Except as provided in subsection (c), the new township to which the**
 26 **territory is transferred may impose property taxes to pay the**
 27 **outstanding indebtedness only within the territory that is**
 28 **transferred, and the territory that is transferred constitutes a**
 29 **special taxing district for purposes of paying the outstanding**
 30 **indebtedness. The department of local government finance shall**
 31 **determine the amount of outstanding indebtedness, if any, for**
 32 **which taxpayers of the territory that has been transferred remain**
 33 **liable under this section.**

34 **(c) After a transfer of territory of a municipality is effective**
 35 **under this chapter, the following apply to debt incurred by a**
 36 **transferor township during the period beginning one (1) year**
 37 **before the date on which a petition is filed with the clerk of the**
 38 **municipality under IC 36-1-1.5-7 and ending on the date the**
 39 **transfer of territory is effective:**

40 **(1) The township to which the territory is transferred is not**
 41 **liable for and is not required to pay any part of that**
 42 **indebtedness.**



1 **(2) A property tax may not be imposed on the taxpayers of the**
 2 **transferred territory to pay any part of that indebtedness.**

3 **(3) The territory that is transferred does not constitute a**
 4 **special taxing district for purposes of paying any part of that**
 5 **indebtedness.**

6 **Sec. 14. The department of local government finance shall**
 7 **adjust the maximum permissible ad valorem property tax levies of**
 8 **the:**

9 **(1) transferor township; and**

10 **(2) the new township to which territory is transferred under**
 11 **this chapter;**

12 **as the department of local government finance determines is**
 13 **necessary to reflect the transfer of the territory.**

14 **Sec. 15. In the year before the year in which the new township**
 15 **is established, the fiscal body of the municipality shall, in the**
 16 **manner provided by IC 6-1.1-17, adopt tax levies, tax rates, and a**
 17 **budget for the new township.**

18 SECTION 4. IC 36-6-1-6, AS AMENDED BY P.L.234-2013,
 19 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 6. (a) This section does not apply to a
 21 township that is altered under IC 36-1-1.5 **or IC 36-1-1.6.**

22 (b) After creation of a township or alteration of a township's
 23 boundaries, the township must have:

24 (1) a surface area of at least twelve (12) square miles and an
 25 assessed valuation of at least two million dollars (\$2,000,000); or

26 (2) a surface area of at least twenty-four (24) square miles;

27 unless it was created or altered under section 3 of this chapter.

28 **SECTION 5. An emergency is declared for this act.**

