



February 12, 2019

HOUSE BILL No. 1177

DIGEST OF HB 1177 (Updated February 7, 2019 4:44 pm - DI 133)

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

Synopsis: Township government issues. Requires a township to prepare a capital improvement plan for the ensuing three years if the balance in certain capital improvement funds in the preceding year exceeds 150% of the township's annual budget estimate. Prohibits the township from collecting property taxes for certain capital improvement funds in the ensuing year unless the township has adopted a capital improvement plan. Requires the legislative council to assign to the appropriate interim study committee the study of: (1) the level of preparedness of volunteer fire departments; and (2) whether volunteer fire departments have the necessary resources to perform their duties. Allows a township to make a one time transfer of an excess balance or part of an excess balance between township funds. Provides that the transfer may not be completed until after the township adopts a capital improvement plan, if the township is required to adopt a capital improvement plan. Requires the transfers must be completed not later than December 31, 2020. Provides that if an eligible municipality petitions an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township, the legislative body of the adjacent township must accept transfer of the territory of an eligible municipality within two years (instead of one year) after the legislative body receives the petition. Repeals a provision that prohibits the transfer of territory from taking effect in the year before a federal decennial census is conducted.

Effective: Upon passage; July 1, 2019.

Ziemke, Mahan, Bacon

January 8, 2019, read first time and referred to Committee on Local Government.
January 10, 2019, reassigned to Committee on Government and Regulatory Reform.
January 31, 2019, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 11, 2019, reported — Do Pass.

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February 12, 2019

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. 1177

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 JULY 1, 2019]: Sec. 9. The following apply if at least two-thirds (2/3)
4 of the voters voting in a special election under this chapter vote "yes"
5 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)~~

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1 **two (2)** year period following the date on which the legislative
2 body 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)~~ **two (2)** year
9 period following the date on which the last legislative body of a
10 township receives such a petition:

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

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

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

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

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

22 SECTION 2. IC 36-1-1.5-14 IS REPEALED [EFFECTIVE JULY
23 1, 2019]. ~~Sec. 14. A transfer of territory under this chapter may not take~~
24 ~~effect during the year preceding a year in which a federal decennial~~
25 ~~census is conducted. A transfer of territory under this chapter that~~
26 ~~would otherwise take effect during the year preceding a year in which~~
27 ~~a federal decennial census is conducted takes effect January 2 of the~~
28 ~~year in which the federal decennial census is conducted.~~

29 SECTION 3. IC 36-6-6-16 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2019]: **Sec. 16. (a) This section does not apply to a township that**
32 **is a distressed political subdivision under IC 6-1.1-20.3.**

33 **(b) As used in this section, "township fund" does not include a**
34 **debt service fund of a township.**

35 **(c) Notwithstanding any other law, a township legislative body,**
36 **in a public meeting, may authorize a one (1) time transfer of any**
37 **excess balance or part of an excess balance from any township fund**
38 **to any other township fund. A township legislative body may**
39 **transfer excess balances from multiple township funds; however,**
40 **all transfers must be authorized by the township legislative body**
41 **at one (1) time. Subject to subsection (d), a township must complete**
42 **all transfers that are authorized by this section not later than**



1 December 31, 2020. Any money transferred under this section may
 2 be used for any lawful purpose for which money in the fund to
 3 which the balance is transferred may be used.

4 (d) If IC 36-6-9 applies to the township, the township must
 5 adopt the township capital improvement plan before the township
 6 may complete a transfer of money under this section.

7 (e) A township may not spend any money that is transferred
 8 until the expenditure of the money has been included in a budget
 9 that has been approved by the department of local government
 10 finance under IC 6-1.1-17. For purposes of fixing its budget and for
 11 purposes of the ad valorem property tax levy limits imposed under
 12 IC 6-1.1-18.5, the township shall treat the money transferred under
 13 this section that the department of local government finance
 14 permits it to spend during a particular calendar year as part of its
 15 ad valorem property tax levy for that same calendar year.

16 (f) This section expires January 1, 2021.

17 SECTION 4. IC 36-6-9 IS ADDED TO THE INDIANA CODE AS
 18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2019]:

20 **Chapter 9. Township Capital Improvement Plan**

21 **Sec. 1. This chapter applies after December 31, 2019.**

22 **Sec. 2. As used in this chapter, "capital improvement" means:**

- 23 (1) acquisition of land;
- 24 (2) site improvements;
- 25 (3) infrastructure improvements;
- 26 (4) construction of buildings or structures;
- 27 (5) rehabilitation, renovation, or enlargement of buildings or
 28 structures; or
- 29 (6) acquisition or improvement of machinery, equipment,
 30 furnishings, or facilities.

31 **Sec. 3. As used in this chapter, "capital improvement fund"**
 32 **means a township fund, the money in which may be used for the**
 33 **payment of capital improvements. The term includes:**

- 34 (1) the general fund;
- 35 (2) the fire protection and emergency services fund under
 36 IC 36-8-13;
- 37 (3) a cumulative firefighting building and equipment fund
 38 under IC 36-8-14;
- 39 (4) an equipment replacement fund under IC 36-8-19-8.5;
- 40 (5) a cumulative township vehicle and building fund under
 41 IC 36-9-17.5;
- 42 (6) a cumulative building fund under IC 36-10-7.5-19;



- 1 (7) a public park fund under IC 36-10-7-7; and
 2 (8) any other fund established by a township for the payment
 3 of capital improvements.

4 **Sec. 4.** As used in this chapter, "plan" refers to a township
 5 capital improvement plan adopted or amended under this chapter.

6 **Sec. 5.** This chapter applies to a township if the total amount of
 7 funds in a township's capital improvement funds exceeds one
 8 hundred fifty percent (150%) of the township's total annual budget
 9 estimate prepared under IC 6-1.1-17-2 for the ensuing year.

10 **Sec. 6.** A township must adopt a capital improvement plan that
 11 meets the requirements of this chapter. The township trustee shall
 12 prepare the plan, and the township board shall hold a public
 13 hearing on a proposed or amended plan, before the township board
 14 adopts the plan.

15 **Sec. 7.** A township that meets the requirements of section 5 of
 16 this chapter must adopt a capital improvement plan not later than
 17 September 30, 2020.

18 **Sec. 8.** A township may not collect property taxes in the ensuing
 19 year for a capital improvement fund described in section 3(3)
 20 through 3(8) of this chapter, unless the township has adopted a
 21 plan that meets the requirements of this chapter.

22 **Sec. 9.** (a) The department of local government finance shall
 23 prescribe the format of a plan not later than September 1, 2019.

24 (b) A plan must:

- 25 (1) apply to at least the three (3) years immediately following
 26 the year the plan is adopted;
 27 (2) estimate for each year to which the plan applies the nature
 28 and amount of proposed expenditures from each of the
 29 township's capital improvement funds; and
 30 (3) estimate:

31 (A) the source of all revenue to be dedicated to the
 32 proposed expenditures in each of the three (3) calendar
 33 years; and

34 (B) the amount of property taxes to be collected in each of
 35 the three (3) calendar years and retained in the capital
 36 improvement funds for expenditures proposed for a later
 37 year.

38 **Sec. 10.** A township trustee, with the approval of the township
 39 legislative body, may amend a plan to:

- 40 (1) provide money for the purposes of a capital improvement
 41 fund; or
 42 (2) supplement money accumulated in a capital improvement



1 **fund for the purposes of the capital improvement fund.**
2 **Sec. 11. A plan shall be considered by:**
3 **(1) the county fiscal body in reviewing the township budget**
4 **under IC 6-1.1-17-3.6; and**
5 **(2) the department of local government finance when**
6 **reviewing a budget, tax rate, and tax levy of a township under**
7 **IC 6-1.1-17-16.**
8 **SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The legislative**
9 **council established by IC 2-5-1.1-1 shall assign to the appropriate**
10 **interim study committee established under IC 2-5-1.3 the study of**
11 **the following:**
12 **(1) The level of preparedness of volunteer fire departments.**
13 **(2) Whether volunteer fire departments have the necessary**
14 **resources to perform their duties.**
15 **(b) This SECTION expires January 1, 2020.**
16 **SECTION 6. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1177, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-1-1.5-9, AS ADDED BY P.L.234-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. The following apply if at least two-thirds (2/3) of the voters voting in a special election under this chapter vote "yes" on the public question under this chapter:

(1) The legislative body of the eligible municipality may, within one (1) year after the special election, submit a petition to one (1) or more adjacent townships requesting an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township.

(2) The legislative body of an adjacent township that receives a petition under subdivision (1) may adopt a resolution accepting the transfer of the territory of the eligible municipality that is within the transferor township and specifying the date on which the transfer is effective. However, the legislative body of the adjacent township may adopt a resolution accepting the transfer of the territory of the eligible municipality only within the ~~one (1)~~ **two (2)** year period following the date on which the legislative body receives the petition.

(3) If the legislative body of the eligible municipality submits a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the special election, but a resolution accepting the transfer of the territory of the eligible municipality within the transferor township is not adopted by the legislative body of an adjacent township within the ~~one (1)~~ **two (2)** year period following the date on which the last legislative body of a township receives such a petition:

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

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

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



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

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

SECTION 2. IC 36-1-1.5-14 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 14. A transfer of territory under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory under this chapter that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which the federal decennial census is conducted.~~

SECTION 3. IC 36-6-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 16. (a) This section does not apply to a township that is a distressed political subdivision under IC 6-1.1-20.3.**

(b) As used in this section, "township fund" does not include a debt service fund of a township.

(c) Notwithstanding any other law, a township legislative body, in a public meeting, may authorize a one (1) time transfer of any excess balance or part of an excess balance from any township fund to any other township fund. A township legislative body may transfer excess balances from multiple township funds; however, all transfers must be authorized by the township legislative body at one (1) time. Subject to subsection (d), a township must complete all transfers that are authorized by this section not later than December 31, 2020. Any money transferred under this section may be used for any lawful purpose for which money in the fund to which the balance is transferred may be used.

(d) If IC 36-6-9 applies to the township, the township must adopt the township capital improvement plan before the township may complete a transfer of money under this section.

(e) A township may not spend any money that is transferred until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under IC 6-1.1-18.5, the township shall treat the money transferred under this section that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) This section expires January 1, 2021."

Page 2, between lines 23 and 24, begin a new paragraph and insert:



"Sec. 7. A township that meets the requirements of section 5 of this chapter must adopt a capital improvement plan not later than September 30, 2020."

Page 2, line 24, delete "7." and insert "8."

Page 2, line 28, delete "8." and insert "9."

Page 2, line 29, delete "." and insert **"not later than September 1, 2019."**

Page 3, line 2, delete "9." and insert "10."

Page 3, line 8, delete "10." and insert "11."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1177 as introduced.)

MAHAN

Committee Vote: yeas 9, nays 3.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1177, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1177 as printed February 1, 2019.)

HUSTON

Committee Vote: Yeas 22, Nays 1

