

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 ENROLLED ACT No. 1177

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AN ACT to amend the Indiana Code concerning local government.

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

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

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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 September 1, 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.

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

**Chapter 9. Township Capital Improvement Plan**

**Sec. 1.** This chapter applies to the preparation of a budget for a township for a year after December 31, 2019.

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

- (1) acquisition of land;
- (2) site improvements;
- (3) infrastructure improvements;
- (4) construction of buildings or structures;
- (5) rehabilitation, renovation, or enlargement of buildings or structures; or
- (6) acquisition or improvement of machinery, equipment, furnishings, or facilities.

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

- (1) the general fund;
- (2) the fire protection and emergency services fund under IC 36-8-13;
- (3) a cumulative firefighting building and equipment fund under IC 36-8-14;
- (4) an equipment replacement fund under IC 36-8-19-8.5;
- (5) a cumulative township vehicle and building fund under IC 36-9-17.5;
- (6) a cumulative building fund under IC 36-10-7.5-19;
- (7) a public park fund under IC 36-10-7-7; and
- (8) any other fund established by a township for the payment of capital improvements.

**Sec. 4.** As used in this chapter, "plan" refers to a township



capital improvement plan adopted or amended under this chapter.

**Sec. 5.** This chapter applies to a township if the total amount of funds in a township's capital improvement funds exceeds:

- (1) one hundred fifty percent (150%) of the township's total annual budget estimate prepared under IC 6-1.1-17-2 for the ensuing year; and
- (2) two hundred thousand dollars (\$200,000).

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

**Sec. 7.** A township that meets the requirements of section 5 of this chapter must:

- (1) adopt a capital improvement plan not later than September 30, 2020; and
- (2) submit a copy of the adopted capital improvement plan to the department of local government finance in the manner prescribed by the department.

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

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

**(b)** A plan must:

- (1) apply to at least the three (3) years immediately following the year the plan is adopted;
- (2) estimate for each year to which the plan applies the nature and amount of proposed expenditures from each of the township's capital improvement funds; and
- (3) estimate:
  - (A) the source of all revenue to be dedicated to the proposed expenditures in each of the three (3) calendar years; and
  - (B) the amount of property taxes to be collected in each of the three (3) calendar years and retained in the capital improvement funds for expenditures proposed for a later year.

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

- (1) provide money for the purposes of a capital improvement



**fund; or**

**(2) supplement money accumulated in a capital improvement fund for the purposes of the capital improvement fund.**

**Sec. 11. A plan shall be considered by the county fiscal body in reviewing the township budget under IC 6-1.1-17-3.6.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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