

HOUSE BILL No. 1268

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.3-6; IC 36-4-3; IC 36-7-4-205; IC 36-9-24-14.

Synopsis: Annexation. Provides the following for annexation ordinances adopted on or after January 1, 2015: (1) Changes the annexation remonstrance process to be similar to the remonstrance process found in property tax statutes. (2) Removes certain judicial intervention in the annexation remonstrance process and the elements required to prevail at a remonstrance hearing. (3) Allows only the owners of nontax exempt property to sign a remonstrance. (4) Allows a municipality to exempt property from property tax liability for municipal purposes if the property is used for agricultural purposes (instead of classified as agricultural for zoning purposes). (5) Requires a landowner-initiated annexation to occur if at least 7/8 of the territory's boundaries are contiguous to the municipality. (6) Requires a fiscal plan to address the expected fiscal impact of the annexation on political subdivisions and taxpayers. (7) Provides that the annexation fiscal plan is similar to plans required for local government mergers and reorganizations, and requires the fiscal plan to be approved by the department of local government finance for accuracy and viability. (8) Requires remonstrators' consent to amend a fiscal plan after a remonstrance is filed. (9) Requires a municipality to conduct an outreach program to inform citizens about a proposed annexation. After December 31, 2014, requires the clerk of the municipality to file a certified copy of a judgment in favor of annexation that is final and unappealable. Requires, for an annexation effective after December 31, 2014, that the county legislative body approve a municipal advisory plan commission's exercise of territorial planning and zoning jurisdiction within two miles of annexation territory.

Effective: January 1, 2015 (retroactive).

Cherry, Negele, Pryor, Riecken

January 13, 2015, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1268

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 8-1-2.3-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
3 Sec. 6. The boundaries of the assigned service areas of electricity
4 suppliers may not be changed except under any one (1) of the following
5 circumstances:
6 (1) If a municipality which owns and operates an electric utility
7 system furnishing retail electric service to the public annexes an
8 area beyond the assigned service area of its municipally owned
9 electric utility, the municipally owned electric utility may petition
10 the commission to change the assigned service area of the
11 municipally owned electric utility to include the annexed area,
12 according to the following procedures:
13 (A) The municipally owned electric utility shall file its petition
14 with the commission not later than sixty (60) days after the
15 annexation becomes effective. The petition must include a



1 certified copy of the annexation ordinance, which serves as
 2 conclusive evidence that the area has been lawfully annexed
 3 and is part of the municipality. After the filing of a petition
 4 under this subdivision, the commission shall promptly enter an
 5 order changing the assigned service area facet maps of the
 6 municipally owned electric utility and incumbent electricity
 7 suppliers to include the annexed area within the assigned
 8 service area of the municipally owned electric utility and
 9 giving the right to serve and immediate possession to the
 10 municipally owned electric utility. The commission order is
 11 enforceable in court pending an appeal of that order. An
 12 appellant from a court order enforcing a commission order
 13 under this subdivision is not entitled to a stay of the court
 14 order pending appeal. However, this subdivision does not
 15 apply to incorporations, consolidations, mergers, or
 16 annexations that are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b),
 17 IC 36-4-3-4(h), or IC 36-4-3-4.1 or that are not contiguous
 18 under ~~IC 36-4-3-13(b)~~ **IC 36-4-3-13(c)** or ~~IC 36-4-3-13(e)~~.
 19 **IC 36-4-3-13(d).**

20 (B) Not later than thirty (30) days after filing a petition under
 21 this subdivision, the municipally owned electric utility shall
 22 determine for each affected incumbent electricity supplier and
 23 pay to that supplier an amount not less than the value of all the
 24 electric utility property of the incumbent electricity supplier
 25 that is devoted to furnishing retail electric service within the
 26 additional assigned service area at its then reproduction cost
 27 new depreciated value. In addition, the municipally owned
 28 electric utility shall pay the incumbent electricity supplier
 29 severance damages in an amount equal to:

30 (i) the value of the incumbent electricity supplier's
 31 distribution and substation facilities dedicated to and located
 32 within the annexed area or relocated by reason of the
 33 annexation or an amount equal to two and one-half (2 1/2)
 34 times the incumbent electricity supplier's gross revenues
 35 from electricity sales in the annexed area during the twelve
 36 (12) month period immediately preceding the date the
 37 annexation ordinance became effective, whichever is
 38 greater; plus

39 (ii) if additional permanent service locations or service
 40 accounts are established in the annexed area during the five
 41 (5) year period beginning on the effective date of the
 42 annexation ordinance, one-tenth of one cent (\$0.001) for



1 each kilowatt hour of electricity sold to each of those
2 permanent service locations or service accounts for sales
3 that occur during a five (5) year period beginning on the
4 date each service location or service account is established,
5 up to a maximum of one hundred seventy thousand
6 (170,000) kilowatt hours per service account or service
7 location for each monthly billing period.

8 However, the municipally owned electric utility is not required
9 to pay severance damages under item (ii) if, at the time each
10 annual payment otherwise would accrue, it is purchasing all of
11 its requirements for electric power and energy, except for
12 generation directly provided by the municipally owned electric
13 utility or by a customer, from the incumbent electricity
14 supplier. Severance damages must be paid not later than thirty
15 (30) days after the end of each calendar year in which
16 severance damages have accrued. The municipally owned
17 electric utility and incumbent electricity suppliers shall
18 cooperate to calculate the amount of any severance damages
19 and shall furnish to each other all information and records
20 reasonably necessary for the determination and verification of
21 severance damages. If the municipally owned electric utility
22 and incumbent electricity suppliers cannot agree on the
23 amount of severance damages the municipally owned electric
24 utility is to pay, the commission shall determine the amount
25 and order payment in accordance with this clause. Not later
26 than twenty (20) days after making a payment, the municipally
27 owned electric utility shall certify to the commission and to
28 any affected incumbent electricity supplier that it has paid the
29 amounts required under this clause.

30 (C) If the municipally owned electric utility fails to make a
31 payment under clause (B), an affected incumbent electricity
32 supplier may, not later than sixty (60) days after the payment
33 is due and after giving the municipally owned electric utility
34 reasonable notice of and an opportunity to cure the defect, file
35 with the commission a petition alleging that a payment due
36 under clause (B) has not been made. If the commission finds
37 after notice and hearing that any payments owed to the
38 incumbent electricity supplier have not been timely and fully
39 paid, the commission shall order the municipally owned
40 electric utility to pay:

41 (i) the delinquent payments by a date determined by the
42 commission;



- 1 (ii) accrued interest at the rate set forth in IC 24-4.6-1-102;
 2 and
 3 (iii) the incumbent electricity supplier's costs of filing and
 4 prosecuting a petition under this clause.
- 5 If the commission finds against the incumbent electricity
 6 supplier, it shall order the incumbent electricity supplier to pay
 7 the costs incurred by the municipally owned electric utility in
 8 defending against the incumbent electricity supplier's petition.
- 9 (D) A certified copy of a final commission order that:
 10 (i) determines and orders the payment of severance damages
 11 under clause (B); or
 12 (ii) orders the payment of delinquent payments, interest, and
 13 costs under clause (C);
 14 may be filed with the clerk of the circuit or superior court of
 15 any county in which part or all of the annexed area is located.
 16 A commission order that is filed in a court under this clause
 17 may be enforced and executed in the same manner as if it were
 18 a final judgment of that court.
- 19 (2) Upon mutual agreement of the affected electricity suppliers
 20 and approval of the commission. If notice of a verified request for
 21 a change of boundary lines by mutual agreement under this
 22 subdivision is published in a newspaper of general circulation in
 23 every county in which the boundary lines are located and an
 24 affected electricity customer does not request a hearing within
 25 twenty (20) days of the last date of publication, the commission
 26 may approve the change without a hearing. The commission shall
 27 approve a boundary line change under this subdivision unless the
 28 commission finds, after a public hearing, that the change would
 29 cause:
 30 (A) duplication of electric utility facilities;
 31 (B) waste of materials or resources; or
 32 (C) uneconomic, inefficient, or inadequate electric service to
 33 the public.
- 34 (3) In the case where a landowner owns a single tract of land that
 35 is intersected by the boundary lines of two (2) or more assigned
 36 service areas, and retail electric service can best be supplied by
 37 only one (1) electricity supplier, or in the case where a customer
 38 or customers are housed in a single structure or constitute a single
 39 governmental, industrial, or institutional operation, and the
 40 electricity suppliers involved are unable to agree which shall
 41 furnish the electric service, any of the electricity suppliers may
 42 submit the matter to the commission for its determination based



1 upon public convenience and necessity. If, after notice and
 2 hearing, the commission determines that one (1) or more
 3 electricity suppliers are to supply the required retail electric
 4 service and the boundaries of an assigned service area are to be
 5 changed, the assigned service area maps of the electricity
 6 suppliers shall be changed to reflect the new boundaries.

7 SECTION 2. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2015 (RETROACTIVE)]: **Sec. 1.7. (a) This section**
 10 **applies only to an annexation ordinance adopted after December**
 11 **31, 2014. This section does not apply to an annexation under**
 12 **section 4(a)(2), 4(a)(3), 4(b), 4(h), 4.1, 5, or 5.1 of this chapter.**

13 **(b) Not earlier than six (6) months before a municipality**
 14 **introduces an annexation ordinance, the municipality shall conduct**
 15 **an outreach program to inform citizens regarding the proposed**
 16 **annexation. The outreach program must conduct at least six (6)**
 17 **public informational meetings regarding the proposed annexation.**
 18 **The informational meetings must provide citizens with the**
 19 **following information:**

20 **(1) Maps showing the proposed boundaries of the annexation**
 21 **territory.**

22 **(2) Proposed plans for extension of capital and noncapital**
 23 **services in the annexation territory, including proposed dates**
 24 **of extension. Detailed information about the proposed types**
 25 **of service.**

26 **(3) Expected fiscal impact on taxpayers in the annexation**
 27 **territory, including any increase in taxes and fees.**

28 SECTION 3. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JANUARY 1, 2015 (RETROACTIVE)]: **Sec. 2.2. (a) This section does**
 31 **not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or**
 32 **4.1 of this chapter or an annexation described in section 5.1 of this**
 33 **chapter.**

34 **(b) Before a municipality may annex territory, the municipality shall**
 35 **provide written notice of the hearing required under section 2.1 of this**
 36 **chapter. Except as provided in subsection (f), the notice must be sent**
 37 **by certified mail at least sixty (60) days before the date of the hearing**
 38 **to each owner of real property, as shown on the county auditor's current**
 39 **tax list, whose real property is located within the territory proposed to**
 40 **be annexed.**

41 **(c) For purposes of an annexation of territory described in section**
 42 **2.5 of this chapter, if the hearing required under section 2.1 of this**



1 chapter is conducted after June 30, 2010, the notice required by this
 2 section must also be sent to each owner of real property, as shown on
 3 the county auditor's current tax list, whose real property is adjacent to
 4 contiguous areas of rights-of-way of the public highway that are only
 5 included in the annexation of territory by operation of IC 36-4-3-2.5 on
 6 the side of the public highway that is not part of the annexed territory.

7 (d) The notice required by this section must include the following:

8 (1) A legal description of the real property proposed to be
 9 annexed.

10 (2) The date, time, location, and subject of the hearing.

11 (3) A map showing the current municipal boundaries and the
 12 proposed municipal boundaries.

13 (4) Current zoning classifications for the area proposed to be
 14 annexed and any proposed zoning changes for the area proposed
 15 to be annexed.

16 (5) A detailed summary of:

17 (A) the fiscal plan described in section 13 of this chapter **for**
 18 **an annexation to which section 13 of this chapter applies;**
 19 **or**

20 (B) the fiscal plan described in section 13.1 of this chapter
 21 **for an annexation to which section 13.1 of this chapter**
 22 **applies.**

23 (6) The location where the public may inspect and copy the fiscal
 24 plan.

25 (7) A statement that the municipality will provide a copy of the
 26 fiscal plan after the fiscal plan is adopted immediately to any
 27 landowner in the annexed territory who requests a copy.

28 (8) The name and telephone number of a representative of the
 29 municipality who may be contacted for further information.

30 (e) If the municipality complies with this section, the notice is not
 31 invalidated if the owner does not receive the notice.

32 (f) This subsection applies to an annexation under section 3 or 4 of
 33 this chapter in which all property owners within the area to be annexed
 34 provide written consent to the annexation. The written notice described
 35 in this section must be sent by certified mail not later than twenty (20)
 36 days before the date of the hearing to each owner of real property, as
 37 shown on the county auditor's current tax list, whose real property is
 38 located within the territory proposed to be annexed.

39 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 41 Sec. 3.1. (a) **This section applies only to an annexation ordinance**
 42 **adopted before January 1, 2015.**



1 ~~(a)~~ **(b)** This section does not apply to an annexation under section
2 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

3 ~~(b)~~ **(c)** A municipality shall develop and adopt a written fiscal plan
4 and establish a definite policy by resolution of the legislative body that
5 meets the requirements set forth in section 13 of this chapter.

6 ~~(c)~~ **(d)** Except as provided in subsection ~~(d)~~; **(e)**, the municipality
7 shall establish and adopt the written fiscal plan before mailing the
8 notification to landowners in the territory proposed to be annexed
9 under section 2.2 of this chapter.

10 ~~(d)~~ **(e)** In an annexation under section 5 or 5.1 of this chapter, the
11 municipality shall establish and adopt the written fiscal plan before
12 adopting the annexation ordinance.

13 SECTION 5. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013,
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 4.1. (a) A municipality
16 may annex territory under this section only if the territory is contiguous
17 to the municipality.

18 **(b) This subsection applies only to an annexation ordinance**
19 **adopted before January 1, 2015.** Territory annexed under this section
20 is exempt from all property tax liability under IC 6-1.1 for municipal
21 purposes for all portions of the annexed territory that are classified for
22 zoning purposes as agricultural and remain exempt from the property
23 tax liability while the property's zoning classification remains
24 agricultural. ~~(c)~~ There may not be a change in the zoning classification
25 of territory annexed under this section without the consent of the owner
26 of the annexed territory.

27 **(c) This subsection applies only to an annexation ordinance**
28 **adopted after December 31, 2014. Territory annexed under this**
29 **section is exempt from all property tax liability under IC 6-1.1 for**
30 **municipal purposes for all parts of the annexed territory that are**
31 **used for agricultural purposes and remain exempt from the**
32 **property tax liability while the property's use remains agricultural.**

33 (d) Territory annexed under this section may not be considered a
34 part of the municipality for purposes of annexing additional territory
35 under section 3 or 4 of this chapter. However, territory annexed under
36 this section shall be considered a part of the municipality for purposes
37 of annexing additional territory under section 5 or 5.1 of this chapter.

38 SECTION 6. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 5. (a) If the
40 owners of land located outside of but contiguous to a municipality want
41 to have territory containing that land annexed to the municipality, they
42 may file with the legislative body of the municipality a petition **that**



- 1 **does the following:**
- 2 (1) **The petition is signed by ~~at least~~ one (1) of the following:**
- 3 (A) **At least** fifty-one percent (51%) of the owners of land in
- 4 the territory sought to be annexed. **For a petition filed after**
- 5 **December 31, 2014, only an owner of land that is not**
- 6 **exempt from property taxes under IC 6-1.1-10 may sign**
- 7 **the petition. ~~or~~**
- 8 (B) The owners of seventy-five percent (75%) of the total
- 9 assessed value of the land for property tax purposes. **For a**
- 10 **petition filed after December 31, 2014, only an owner of**
- 11 **land that is not exempt from property taxes under IC 6-1.1**
- 12 **may sign the petition. ~~and~~**
- 13 (2) ~~requesting~~ **The petition requests** an ordinance annexing the
- 14 area described in the petition.
- 15 (b) The petition circulated by the landowners must include on each
- 16 page where signatures are affixed a heading that is substantially similar
- 17 to the following:
- 18 "PETITION FOR ANNEXATION INTO THE (insert whether city
- 19 or town) OF (insert name of city or town)."
- 20 (c) Except as provided in section 5.1 of this chapter, if the
- 21 legislative body fails to pass the ordinance within one hundred fifty
- 22 (150) days after the date of filing of a petition under subsection (a), the
- 23 petitioners may file a duplicate copy of the petition in the circuit or
- 24 superior court of a county in which the territory is located, and shall
- 25 include a written statement of why the annexation should take place.
- 26 Notice of the proceedings, in the form of a summons, shall be served
- 27 on the municipality named in the petition. The municipality is the
- 28 defendant in the cause and shall appear and answer.
- 29 (d) The court shall hear and determine the petition without a jury,
- 30 and shall order the proposed annexation to take place only if the
- 31 evidence introduced by the parties establishes:
- 32 (1) that:
- 33 (1) ~~(A)~~ **(A)** essential municipal services and facilities are not
- 34 available to the residents of the territory sought to be annexed;
- 35 (2) ~~(B)~~ **(B)** the municipality is physically and financially able to
- 36 provide municipal services to the territory sought to be
- 37 annexed;
- 38 (3) ~~(C)~~ **(C)** the population density of the territory sought to be
- 39 annexed is at least three (3) persons per acre; and
- 40 (4) ~~(D)~~ **(D)** the territory sought to be annexed is contiguous to the
- 41 municipality **as required by section 1.5 of this chapter; or**
- 42 (2) **that with respect to a petition filed after December 31,**



1 **2014, the territory described in the petition is contiguous to**
 2 **the municipality as required by section 1.5 of this chapter,**
 3 **except that at least seven-eighths (7/8), instead of one-eighth**
 4 **(1/8), of the aggregate external boundaries of the territory**
 5 **coincides with the boundaries of the municipality.**

6 If the evidence does not establish **either** all four (4) of the ~~preceding~~
 7 factors **listed in subdivision (1), or (after December 31, 2014), the**
 8 **factor listed in subdivision (2)**, the court shall deny the petition and
 9 dismiss the proceeding.

10 (e) This subsection does not apply to a town that has abolished town
 11 legislative body districts under IC 36-5-2-4.1. An ordinance adopted
 12 under this section must assign the territory annexed by the ordinance
 13 to at least one (1) municipal legislative body district.

14 SECTION 7. IC 36-4-3-5.1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:

16 Sec. 5.1. (a) This section applies to an annexation in which owners of
 17 land located outside but contiguous to a municipality file a petition
 18 with the legislative body of the municipality **that meets the following**
 19 **requirements:**

20 (1) ~~requesting~~ **The petition requests** an ordinance annexing the
 21 area described in the petition. ~~and~~

22 (2) **The petition is** signed by one hundred percent (100%) of the
 23 landowners that reside within the territory that is proposed to be
 24 annexed. **For a petition filed after December 31, 2014, only an**
 25 **owner of land that is not exempt from property taxes imposed**
 26 **under IC 6-1.1-10 may sign the petition.**

27 (b) Sections 2.1 and 2.2 of this chapter do not apply to an
 28 annexation under this section.

29 (c) The petition circulated by the landowners must include on each
 30 page where signatures are affixed a heading that is substantially similar
 31 to the following:

32 "PETITION FOR ANNEXATION INTO THE (insert whether city
 33 or town) OF (insert name of city or town).".

34 (d) The municipality may:

35 (1) adopt an annexation ordinance annexing the territory; and

36 (2) adopt a fiscal plan and establish a definite policy by resolution
 37 of the legislative body;

38 after the legislative body has held a public hearing on the proposed
 39 annexation.

40 (e) The municipality may introduce and hold the public hearing on
 41 the annexation ordinance not later than thirty (30) days after the
 42 petition is filed with the legislative body. Notice of the public hearing



1 may be published one (1) time in accordance with IC 5-3-1 at least
 2 twenty (20) days before the hearing. All interested parties must have
 3 the opportunity to testify at the hearing as to the proposed annexation.

4 (f) The municipality may adopt the annexation ordinance not earlier
 5 than fourteen (14) days after the public hearing under subsection (e).

6 (g) A landowner may withdraw the landowner's signature from the
 7 petition not more than thirteen (13) days after the municipality adopts
 8 the fiscal plan **under section 13 or (after December 31, 2014) 13.1 of**
 9 **this chapter** by providing written notice to the office of the clerk of the
 10 municipality. If a landowner withdraws the landowner's signature, the
 11 petition shall automatically be considered a voluntary petition that is
 12 filed with the legislative body under section 5 of this chapter, fourteen
 13 (14) days after the date the fiscal plan **under section 13 or (after**
 14 **December 31, 2014) 13.1 of this chapter** is adopted. All provisions
 15 applicable to a petition initiated under section 5 of this chapter apply
 16 to the petition.

17 (h) If the municipality does not adopt an annexation ordinance
 18 within sixty (60) days after the landowners file the petition with the
 19 legislative body, the landowners may file a duplicate petition with the
 20 circuit or superior court of a county in which the territory is located.
 21 The court shall determine whether the annexation shall take place as
 22 set forth in section 5 of this chapter.

23 (i) A remonstrance under section 11 **or 11.1** of this chapter may not
 24 be filed. However, an appeal under section 15.5 of this chapter may be
 25 filed.

26 (j) In the absence of an appeal under section 15.5 of this chapter, an
 27 annexation ordinance adopted under this section takes effect not less
 28 than thirty (30) days after the adoption of the ordinance and upon the
 29 filing and recording of the ordinance under section 22 of this chapter.

30 SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,
 31 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 7. (a) After
 33 an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it
 34 must be published in the manner prescribed by IC 5-3-1. Except as
 35 provided in subsection (b), (c), or (f), in the absence of remonstrance
 36 and appeal under section 11, **11.1**, or 15.5 of this chapter, the ordinance
 37 takes effect at least ninety (90) days after its publication and upon the
 38 filing required by section 22(a) of this chapter.

39 (b) An ordinance described in subsection (d) or adopted under
 40 section 3, 4, 5, or 5.1 of this chapter may not take effect during the year
 41 preceding a year in which a federal decennial census is conducted. An
 42 ordinance that would otherwise take effect during the year preceding



1 a year in which a federal decennial census is conducted takes effect
 2 January 1 of the year in which a federal decennial census is conducted.

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

5 (d) Except as provided in subsection (b), whenever a municipality
 6 annexes territory, all or part of which lies within a fire protection
 7 district (IC 36-8-11), the annexation ordinance (in the absence of
 8 remonstrance and appeal under section 11, **11.1**, or 15.5 of this
 9 chapter) takes effect the second January 1 that follows the date the
 10 ordinance is adopted and upon the filing required by section 22(a) of
 11 this chapter. The municipality shall:

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

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

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

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

38 SECTION 9. IC 36-4-3-7.1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 40 Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance
 41 adopted under section 4 of this chapter takes effect immediately upon
 42 the expiration of the ~~sixty (60) day~~ remonstrance and appeal period



1 under section 11, **11.1**, or 15.5 of this chapter and after the publication,
 2 filing, and recording required by section 22(a) of this chapter if all of
 3 the following conditions are met:

- 4 (1) The annexed territory has no population.
 5 (2) Ninety percent (90%) of the total assessed value of the land
 6 for property tax purposes has one (1) owner.
 7 (3) The annexation is required to fulfill an economic development
 8 incentive package and to retain an industry through various local
 9 incentives, including urban enterprise zone benefits.

10 SECTION 10. IC 36-4-3-8 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 12 Sec. 8. (a) This section does not apply to an ordinance adopted under
 13 section 5 or 5.1 of this chapter.

14 (b) An ordinance adopted under section 3 or 4 of this chapter must
 15 include terms and conditions fairly calculated to make the annexation
 16 equitable to the property owners and residents of the municipality and
 17 the annexed territory. The terms and conditions may include:

- 18 (1) postponing the effective date of the annexation for not more
 19 than three (3) years; and
 20 (2) establishing equitable provisions for the future management
 21 and improvement of the annexed territory and for the rendering of
 22 needed services.

23 (c) This subsection applies to territory sought to be annexed that
 24 meets all of the following requirements:

- 25 (1) The resident population density of the territory is at least three
 26 (3) persons per acre.
 27 (2) The territory is subdivided or is parceled through separate
 28 ownerships into lots or parcels such that at least sixty percent
 29 (60%) of the total number of lots and parcels are not more than
 30 one (1) acre.

31 This subsection does not apply to an ordinance annexing territory
 32 described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The
 33 ordinance must include terms and conditions impounding in a special
 34 fund all of the municipal property taxes imposed on the annexed
 35 territory after the annexation takes effect that are not used to meet the
 36 basic services described in section ~~13(d)(4)~~ **13(e)(4)** and ~~13(d)(5)~~
 37 **13(e)(5)** of this chapter **(for an annexation ordinance adopted before**
 38 **January 1, 2015) and in section 13.1(d)(3) of this chapter (for an**
 39 **annexation ordinance adopted after December 31, 2014) for a**
 40 **period of at least three (3) years. The impounded property taxes must**
 41 **be used to provide additional services that were not specified in the**
 42 **plan of annexation. The impounded property taxes in the fund shall be**



1 expended as set forth in this section, not later than five (5) years after
2 the annexation becomes effective.

3 SECTION 11. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 11. **(a) This section
6 applies only to an annexation ordinance adopted before January 1,
7 2015.**

8 ~~(a)~~ **(b)** Except as provided in section 5.1(i) of this chapter and
9 subsections ~~(d)~~ **(e)** and ~~(e)~~ **(f)**, whenever territory is annexed by a
10 municipality under this chapter, the annexation may be appealed by
11 filing with the circuit or superior court of a county in which the
12 annexed territory is located a written remonstrance signed by:

- 13 (1) at least sixty-five percent (65%) of the owners of land in the
14 annexed territory; or
15 (2) the owners of more than seventy-five percent (75%) in
16 assessed valuation of the land in the annexed territory.

17 The remonstrance must be filed within ninety (90) days after the
18 publication of the annexation ordinance under section 7 of this chapter,
19 must be accompanied by a copy of that ordinance, and must state the
20 reason why the annexation should not take place.

21 ~~(b)~~ **(c)** On receipt of the remonstrance, the court shall determine
22 whether the remonstrance has the necessary signatures. In determining
23 the total number of landowners of the annexed territory and whether
24 signers of the remonstrance are landowners, the names appearing on
25 the tax duplicate for that territory constitute prima facie evidence of
26 ownership. Only one (1) person having an interest in each single
27 property, as evidenced by the tax duplicate, is considered a landowner
28 for purposes of this section.

29 ~~(e)~~ **(d)** If the court determines that the remonstrance is sufficient, it
30 shall fix a time, within sixty (60) days of its determination, for a
31 hearing on the remonstrance. Notice of the proceedings, in the form of
32 a summons, shall be served on the annexing municipality. The
33 municipality is the defendant in the cause and shall appear and answer.

34 ~~(d)~~ **(e)** If an annexation is initiated by property owners under section
35 5.1 of this chapter and all property owners within the area to be
36 annexed petition the municipality to be annexed, a remonstrance to the
37 annexation may not be filed under this section.

38 ~~(e)~~ **(f)** This subsection applies if:

- 39 (1) the territory to be annexed consists of not more than one
40 hundred (100) parcels; and
41 (2) eighty percent (80%) of the boundary of the territory proposed
42 to be annexed is contiguous to the municipality.



1 An annexation may be appealed by filing with the circuit or superior
 2 court of a county in which the annexed territory is located a written
 3 remonstrance signed by at least seventy-five percent (75%) of the
 4 owners of land in the annexed territory as determined under subsection
 5 (b).

6 SECTION 12. IC 36-4-3-11.1 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: **Sec. 11.1. (a)**
 9 **This section applies only to an annexation ordinance adopted after**
 10 **December 31, 2014.**

11 **(b) An annexation ordinance does not go into effect unless the**
 12 **annexing municipality completes the following procedures:**

13 **(1) The proper officers of the municipality must give notice of**
 14 **the applicability of the remonstrance process by:**

- 15 **(A) publishing the notice in accordance with IC 5-3-1; and**
 16 **(B) first class mail to the circuit court clerk and to owners**
 17 **of real property described in section 2.2 of this chapter.**

18 **A notice under this subdivision must include a statement that**
 19 **any owners of real property within the area to be annexed**
 20 **who want to remonstrate against the proposed annexation**
 21 **must file remonstrances in compliance with subdivisions (2)**
 22 **through (4) not earlier than thirty (30) days or later than**
 23 **ninety (90) days after publication of the notice in accordance**
 24 **with IC 5-3-1.**

25 **(2) Not earlier than thirty (30) days or later than ninety (90)**
 26 **days after the notice under subdivision (1) is given,**
 27 **remonstrances may be filed by an owner of real property**
 28 **within the area to be annexed that is not exempt from**
 29 **property taxes under IC 6-1.1-10. Each signature on the**
 30 **remonstrance must be dated, and the date of the signature**
 31 **may not be earlier than the date on which the remonstrance**
 32 **forms may be issued under subdivision (3). A person who**
 33 **signs as an owner of real property must indicate the address**
 34 **of the real property owned by the person in the area to be**
 35 **annexed. A remonstrance petition must be verified in**
 36 **compliance with subdivision (4) before the remonstrance is**
 37 **effective. A signature on a remonstrance form is final and**
 38 **may not be rescinded.**

39 **(3) The state board of accounts shall design and, upon request**
 40 **by the county auditor's office, deliver to the county auditor's**
 41 **office or the county auditor's office's designated printer the**
 42 **remonstrance forms to be used solely in the remonstrance**



1 process described in this section. The county auditor's office
 2 shall issue to an owner or owners of real property within the
 3 area to be annexed the number of remonstrance forms
 4 requested by the owner or owners. Each form must be
 5 accompanied by instructions detailing the requirements that:

6 (A) the carrier and signers must be owners of real
 7 property;

8 (B) the carrier must be a signatory of at least one (1)
 9 remonstrance petition;

10 (C) after the signatures have been collected, the carrier
 11 must swear or affirm before a notary public that the
 12 carrier witnessed each signature; and

13 (D) govern the closing date for the remonstrance period.

14 A person requesting remonstrance forms may be required to
 15 identify himself or herself as an owner of real property and
 16 may be allowed to obtain additional copies to distribute to
 17 other owners of real property. The county auditor's office
 18 may not issue a remonstrance form earlier than twenty-nine
 19 (29) days after notice is given under subdivision (1). The
 20 county auditor's office shall certify the date of issuance on
 21 each remonstrance form that is distributed under this
 22 subdivision.

23 (4) Remonstrance forms must be verified in the manner
 24 prescribed by the state board of accounts and filed with the
 25 county auditor's office within the period described in
 26 subdivision (2).

27 (5) Not later than fifteen (15) business days after receiving a
 28 remonstrance, the county auditor's office shall make a final
 29 determination of the number of owners of real property
 30 within the territory to be annexed who signed the
 31 remonstrance.

32 (6) A person may sign a remonstrance only one (1) time in a
 33 particular remonstrance process under this section, even if the
 34 person owns more than one (1) parcel of real property in the
 35 territory to be annexed.

36 (7) The county auditor shall file a certificate with the
 37 legislative body of the annexing municipality not later than
 38 five (5) business days after making the determination under
 39 subdivision (5). In making the determination under
 40 subdivision (5), the county auditor shall use the auditor's
 41 current tax records as provided in section 2.2 of this chapter.

42 (c) If a majority of persons who own real property within the



1 territory to be annexed that is not tax exempt under IC 6-1.1-10
2 sign a remonstrance, the annexation ordinance is void.

3 (d) If the annexation ordinance is considered void under
4 subsection (c), the municipality may not make subsequent
5 annexations under section 3 or 4 of this chapter in the same
6 territory for a period of forty-eight (48) months after the date the
7 county auditor files the certificate with the legislative body of the
8 annexing municipality under subsection (b)(7).

9 (e) Withdrawal of an annexation ordinance voids the ordinance
10 and has the same effect as a void ordinance under subsection (d).

11 SECTION 13. IC 36-4-3-11.2 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: **Sec. 11.2. (a)**
14 **This section applies only to an annexation ordinance adopted after**
15 **December 31, 2014.**

16 (b) This section applies to the determination of the validity of a
17 signature on a document required for a remonstrance procedure
18 under this chapter.

19 (c) If:

20 (1) the validity of a signature is uncertain; and

21 (2) this section does not establish a standard to be applied in
22 the case;

23 a reasonable doubt must be resolved in favor of the validity of the
24 signature.

25 (d) Whenever the name of an individual, as printed or signed,
26 contains a minor variation from the name of the individual as set
27 forth in the relevant county records, the signature is considered
28 valid.

29 (e) Whenever the residence address or mailing address of an
30 individual contains a minor variation from the residence address
31 or mailing address as set forth in the relevant county records, the
32 signature is considered valid.

33 (f) Notwithstanding subsections (d) and (e), if the residence
34 address or mailing address of an individual contains a substantial
35 variation from the residence address or mailing address as set
36 forth in the relevant county records, the signature is considered
37 invalid.

38 (g) If the signature of an individual does not substantially
39 conform with the signature of the individual in relevant county
40 records, the signature is considered invalid. In determining
41 whether a signature substantially conforms with the signature in
42 the relevant county records, consideration shall be given to



1 **whether that lack of conformity may reasonably be attributed to**
 2 **the age, disability, or impairment of the individual.**

3 SECTION 14. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
 4 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 12. **(a)**
 6 **This section applies only to an annexation ordinance adopted**
 7 **before January 1, 2015.**

8 ~~(a)~~ **(b)** The circuit or superior court shall:

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

11 (2) without delay, enter judgment on the question of the
 12 annexation according to the evidence that either party may
 13 introduce.

14 ~~(b)~~ **(c)** If the court enters judgment in favor of the annexation, the
 15 annexation may not take effect during the year preceding the year in
 16 which a federal decennial census is conducted. An annexation that
 17 would otherwise take effect during the year preceding a year in which
 18 a federal decennial census is conducted takes effect January 1 of the
 19 year in which a federal decennial census is conducted.

20 SECTION 15. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,
 21 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 13. **(a)**
 23 **This section applies only to an annexation ordinance adopted**
 24 **before January 1, 2015.**

25 ~~(a)~~ **(b)** Except as provided in subsections ~~(e)~~ **(f)** and ~~(g)~~ **(h)**, at the
 26 hearing under section 12 of this chapter, the court shall order a
 27 proposed annexation to take place if the following requirements are
 28 met:

29 (1) The requirements of either subsection ~~(b)~~ **or (c) or (d).**

30 (2) The requirements of subsection ~~(d)~~ **(e).**

31 ~~(b)~~ **(c)** The requirements of this subsection are met if the evidence
 32 establishes the following:

33 (1) That the territory sought to be annexed is contiguous to the
 34 municipality.

35 (2) One (1) of the following:

36 (A) The resident population density of the territory sought to
 37 be annexed is at least three (3) persons per acre.

38 (B) Sixty percent (60%) of the territory is subdivided.

39 (C) The territory is zoned for commercial, business, or
 40 industrial uses.

41 ~~(e)~~ **(d)** The requirements of this subsection are met if the evidence
 42 establishes the following:



1 (1) That the territory sought to be annexed is contiguous to the
 2 municipality as required by section 1.5 of this chapter, except that
 3 at least one-fourth (1/4), instead of one-eighth (1/8), of the
 4 aggregate external boundaries of the territory sought to be
 5 annexed must coincide with the boundaries of the municipality.

6 (2) That the territory sought to be annexed is needed and can be
 7 used by the municipality for its development in the reasonably
 8 near future.

9 ~~(d)~~ (e) The requirements of this subsection are met if the evidence
 10 establishes that the municipality has developed and adopted a written
 11 fiscal plan and has established a definite policy, by resolution of the
 12 legislative body as set forth in section 3.1 of this chapter. The fiscal
 13 plan must show the following:

14 (1) The cost estimates of planned services to be furnished to the
 15 territory to be annexed. The plan must present itemized estimated
 16 costs for each municipal department or agency.

17 (2) The method or methods of financing the planned services. The
 18 plan must explain how specific and detailed expenses will be
 19 funded and must indicate the taxes, grants, and other funding to
 20 be used.

21 (3) The plan for the organization and extension of services. The
 22 plan must detail the specific services that will be provided and the
 23 dates the services will begin.

24 (4) That planned services of a noncapital nature, including police
 25 protection, fire protection, street and road maintenance, and other
 26 noncapital services normally provided within the corporate
 27 boundaries, will be provided to the annexed territory within one
 28 (1) year after the effective date of annexation and that they will be
 29 provided in a manner equivalent in standard and scope to those
 30 noncapital services provided to areas within the corporate
 31 boundaries regardless of similar topography, patterns of land use,
 32 and population density.

33 (5) That services of a capital improvement nature, including street
 34 construction, street lighting, sewer facilities, water facilities, and
 35 stormwater drainage facilities, will be provided to the annexed
 36 territory within three (3) years after the effective date of the
 37 annexation in the same manner as those services are provided to
 38 areas within the corporate boundaries, regardless of similar
 39 topography, patterns of land use, and population density, and in
 40 a manner consistent with federal, state, and local laws,
 41 procedures, and planning criteria.

42 ~~(e)~~ (f) At the hearing under section 12 of this chapter, the court shall



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do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection ~~(f)~~: **(g)**.

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section ~~11(b)~~ **11(c)** of this chapter.

~~(f)~~ **(g)** The municipality under subsection ~~(e)(2)(C)~~ **(f)(2)(C)** bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.



1 ~~(g)~~ **(h)** This subsection applies only to cities located in a county
 2 having a population of more than two hundred fifty thousand (250,000)
 3 but less than two hundred seventy thousand (270,000). However, this
 4 subsection does not apply if on April 1, 1993, the entire boundary of
 5 the territory that is proposed to be annexed was contiguous to territory
 6 that was within the boundaries of one (1) or more municipalities. At the
 7 hearing under section 12 of this chapter, the court shall do the
 8 following:

9 (1) Consider evidence on the conditions listed in subdivision (2).

10 (2) Order a proposed annexation not to take place if the court
 11 finds that all of the following conditions exist in the territory
 12 proposed to be annexed:

13 (A) The following services are adequately furnished by a
 14 provider other than the municipality seeking the annexation:

15 (i) Police and fire protection.

16 (ii) Street and road maintenance.

17 (B) The annexation will have a significant financial impact on
 18 the residents or owners of land.

19 (C) One (1) of the following opposes the annexation:

20 (i) A majority of the owners of land in the territory proposed
 21 to be annexed.

22 (ii) The owners of more than seventy-five percent (75%) in
 23 assessed valuation of the land in the territory proposed to be
 24 annexed.

25 Evidence of opposition may be expressed by any owner of land
 26 in the territory proposed to be annexed.

27 ~~(h)~~ **(i)** The most recent:

28 (1) federal decennial census;

29 (2) federal special census;

30 (3) special tabulation; or

31 (4) corrected population count;

32 shall be used as evidence of resident population density for purposes
 33 of subsection ~~(b)(2)(A)~~; **(c)(2)(A)**, but this evidence may be rebutted
 34 by other evidence of population density.

35 SECTION 16. IC 36-4-3-13.1 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 37 **[EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 13.1. (a)**
 38 **This section applies only to an annexation ordinance adopted after**
 39 **December 31, 2014.**

40 **(b) This section does not apply to an annexation under sections**
 41 **4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.**

42 **(c) A municipality may not annex territory without a plan to**



1 provide and finance municipal services and capital improvements
2 to the annexed territory.

3 (d) The annexing municipality must prepare a fiscal plan of the
4 proposed annexation. The fiscal plan must include at least the
5 following:

6 (1) A list of all parcels of property in the annexation territory
7 and the following information regarding each parcel:

8 (A) The name of the owner of the parcel.

9 (B) The parcel identification number.

10 (C) The most recent assessed value of the parcel.

11 (2) The estimated effect of the proposed annexation on
12 taxpayers in each of the political subdivisions to which the
13 proposed annexation applies, including the expected tax rates,
14 tax levies, expenditure levels, service levels, and annual debt
15 service payments in those political subdivisions for four (4)
16 years after the effective date of the annexation.

17 (3) The estimated effect the proposed annexation will have on
18 municipal finances, specifically how municipal tax revenues
19 will be affected by the annexation for four (4) years after the
20 effective date of the annexation.

21 (4) A description of the planned services and capital
22 improvements to be provided in the annexed territory and the
23 method or methods of financing those services and
24 improvements. The fiscal impact analysis must:

25 (A) present itemized estimated costs for each department
26 or agency of the municipality;

27 (B) explain how specific and detailed expenses will be
28 funded from taxes, fees, grants, and other funding; and

29 (C) provide a specific implementation schedule for planned
30 services and capital improvements. Under the
31 implementation schedule:

32 (i) planned services of a noncapital nature, including
33 police protection, fire protection, street and road
34 maintenance, and other noncapital services normally
35 provided within the corporate boundaries, must be
36 provided to the annexed territory not later than one (1)
37 year after the effective date of annexation and be
38 provided in a manner equivalent in standard and scope
39 to those noncapital services provided to areas within the
40 corporate boundaries regardless of similar topography,
41 patterns of land use, and population density; and

42 (ii) capital improvements, including street construction,



1 street lighting, sewer facilities, water facilities, and
 2 stormwater drainage facilities, must be provided to the
 3 annexed territory not later than three (3) years after the
 4 effective date of the annexation in the same manner as
 5 those services are provided to areas within the corporate
 6 boundaries, regardless of similar topography, patterns
 7 of land use, and population density, and in a manner
 8 consistent with federal, Indiana, and local laws,
 9 procedures, and planning criteria.

10 (5) Any estimated effects on political subdivisions in the
 11 county that are not a part of the annexation and on taxpayers
 12 located in those political subdivisions for four (4) years after
 13 the effective date of the annexation.

14 (e) A fiscal plan must contain sufficient detail to provide a
 15 reasonable person with full and complete understanding of the
 16 proposal for providing planned services and capital improvements.

17 (f) The municipality preparing a fiscal plan after December 31,
 18 2014, must submit the fiscal plan described in subsection (d) to the
 19 department of local government finance. A municipality may not
 20 adopt an annexation ordinance until the department of local
 21 government finance has done the following:

22 (1) Reviewed and approved the fiscal plan for:

23 (A) accuracy and completeness of the information; and

24 (B) viability of the fiscal plan.

25 (2) Made any comments concerning the fiscal plan that the
 26 department considers appropriate.

27 (3) Provided the department's comments under subdivision
 28 (2) to the annexing municipality.

29 (4) Posted the department's comments under subdivision (2)
 30 on the department's Internet web site.

31 The department of local government finance may request
 32 additional information that the department considers necessary to
 33 aid in its review. The department of local government finance shall
 34 approve or disapprove the municipality's fiscal plan not later than
 35 thirty (30) days after the fiscal plan is submitted to the department.
 36 If the municipality amends the fiscal plan and submits the
 37 amended fiscal plan to the department of local government finance,
 38 the department shall approve or disapprove the amended plan not
 39 later than thirty (30) days after the amended fiscal plan is
 40 submitted to the department. The department of local government
 41 finance shall certify to the legislative body of the annexing
 42 municipality the total amount of expense incurred by the



1 department in carrying out the department's review and preparing
 2 the department's comments. Upon receipt of the department of
 3 local government finance's certification of the expenses, the
 4 annexing municipality shall immediately pay to the treasurer of
 5 state the amount charged. Money paid by an annexing municipality
 6 under this subsection shall be deposited in the state general fund.

7 (g) A municipality may not amend the fiscal plan after the date
 8 that a remonstrance is filed under section 11 of this chapter, unless
 9 amendment of the fiscal plan is consented to by the individuals
 10 signing the remonstrance petition. A municipality that amends the
 11 fiscal plan under this subsection may submit the amended plan to
 12 the department for review and comment. The department of local
 13 government finance shall certify the expense incurred by the
 14 department in carrying out the review and preparing the
 15 comments as set forth in subsection (f).

16 SECTION 17. IC 36-4-3-14 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 18 Sec. 14. (a) **This section applies only to an annexation ordinance**
 19 **adopted before January 1, 2015.**

20 (b) In a hearing under section 12 of this chapter, the laws providing
 21 for change of venue from the county do not apply, but changes of venue
 22 from the judge may be had as in other cases. Costs follow judgment.
 23 Pending the remonstrance, and during the time within which the
 24 remonstrance may be taken, the territory sought to be annexed is not
 25 considered a part of the municipality.

26 SECTION 18. IC 36-4-3-15 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 28 Sec. 15. (a) **This section applies to a judgment filed after December**
 29 **31, 2014.**

30 (a) (b) The court's judgment under section 12 or 15.5 of this chapter
 31 must specify the annexation ordinance on which the remonstrance is
 32 based. The clerk of the court shall deliver a certified copy of the **final**
 33 **and unappealable** judgment to the clerk of the municipality. The clerk
 34 of the municipality shall:

- 35 (1) record the judgment in the clerk's ordinance record; and
- 36 (2) make a cross-reference to the record of the judgment on the
 37 margin of the record of the annexation ordinance.

38 (b) (c) If a **final and unappealable** judgment under section 12 or
 39 15.5 of this chapter is adverse to annexation, the municipality may not
 40 make further attempts to annex the territory or any part of the territory
 41 during the four (4) years after the later of:

- 42 (1) the judgment of the circuit or superior court; or



1 (2) the date of the final disposition of all appeals to a higher court;
 2 unless the annexation is petitioned for under section 5 or 5.1 of this
 3 chapter.

4 ~~(c)~~ **(d)** This subsection applies if a municipality repeals the
 5 annexation ordinance:

6 (1) less than sixty-one (61) days after the publication of the
 7 ordinance under section 7(a) of this chapter; and

8 (2) before the hearing commences on the remonstrance under
 9 section ~~H(c)~~ **11(d)** of this chapter.

10 A municipality may not make further attempts to annex the territory or
 11 any part of the territory during the twelve (12) months after the date the
 12 municipality repeals the annexation ordinance. This subsection does
 13 not prohibit an annexation of the territory or part of the territory that is
 14 petitioned for under section 5 or 5.1 of this chapter.

15 ~~(d)~~ **(e)** This subsection applies if a municipality repeals the
 16 annexation ordinance:

17 (1) at least sixty-one (61) days but not more than one hundred
 18 twenty (120) days after the publication of the ordinance under
 19 section 7(a) of this chapter; and

20 (2) before the hearing commences on the remonstrance under
 21 section ~~H(c)~~ **11(d)** of this chapter.

22 A municipality may not make further attempts to annex the territory or
 23 any part of the territory during the twenty-four (24) months after the
 24 date the municipality repeals the annexation ordinance. This subsection
 25 does not prohibit an annexation of the territory or part of the territory
 26 that is petitioned for under section 5 or 5.1 of this chapter.

27 ~~(e)~~ **(f)** This subsection applies if a municipality repeals the
 28 annexation ordinance:

29 (1) either:

30 (A) at least one hundred twenty-one (121) days after
 31 publication of the ordinance under section 7(a) of this chapter
 32 but before the hearing commences on the remonstrance under
 33 section ~~H(c)~~ **11(d)** of this chapter; or

34 (B) after the hearing commences on the remonstrance as set
 35 forth in section ~~H(c)~~ **11(d)** of this chapter; and

36 (2) before the date of the judgment of the circuit or superior court
 37 as set forth in subsection ~~(b)~~ **(c)**.

38 A municipality may not make further attempts to annex the territory or
 39 any part of the territory during the forty-two (42) months after the date
 40 the municipality repeals the annexation ordinance. This subsection
 41 does not prohibit an annexation of the territory or part of the territory
 42 that is petitioned for under section 5 or 5.1 of this chapter.



1 ~~(f)~~ **(g)** If a **final and unappealable** judgment under section 12 or
 2 15.5 of this chapter orders the annexation to take place, the annexation
 3 is effective when the clerk of the municipality complies with the filing
 4 requirement of section ~~22(a)~~ **22(b)** of this chapter.

5 SECTION 19. IC 36-4-3-15.3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 7 Sec. 15.3. **(a) This section applies only to an annexation ordinance**
 8 **adopted before January 1, 2015.**

9 ~~(a)~~ **(b)** As used in this section, "prohibition against annexation"
 10 means that a municipality may not make further attempts to annex
 11 certain territory or any part of that territory.

12 ~~(b)~~ **(c)** As used in this section, "settlement agreement" means a
 13 written court approved settlement of a dispute involving annexation
 14 under this chapter between a municipality and remonstrators.

15 ~~(c)~~ **(d)** Under a settlement agreement between the annexing
 16 municipality and either:

17 (1) seventy-five percent (75%) or more of all landowners
 18 participating in the remonstrance; or

19 (2) the owners of more than seventy-five percent (75%) in
 20 assessed valuation of the land owned by all landowners
 21 participating in the remonstrance;

22 the parties may mutually agree to a prohibition against annexation of
 23 all or part of the territory by the municipality for a period not to exceed
 24 twenty (20) years. The settlement agreement may address issues and
 25 bind the parties to matters relating to the provision by a municipality
 26 of planned services of a noncapital nature and services of a capital
 27 improvement nature (as described in section ~~13(d)~~ **13(e)** of this
 28 chapter), in addition to a prohibition against annexation. The settlement
 29 agreement is binding upon the successors, heirs, and assigns of the
 30 parties to the agreement. However, the settlement agreement may be
 31 amended or revised periodically on further agreement between the
 32 annexing municipality and landowners who meet the qualifications of
 33 ~~subsection (c)(1) subdivision (1) or (c)(2): (2).~~

34 SECTION 20. IC 36-4-3-16 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 36 Sec. 16. (a) Within one (1) year after the expiration of:

37 (1) the one (1) year period for implementation of planned services
 38 of a noncapital nature under section ~~13(d)(4)~~ **13(e)(4) or**
 39 **13.1(d)(4)** of this chapter; or

40 (2) the three (3) year period for the implementation of planned
 41 services of a capital improvement nature under section ~~13(d)(5)~~
 42 **13(e)(5) or 13.1(d)(4)** of this chapter;



1 any person who pays taxes on property located within the annexed
 2 territory may file a complaint alleging injury resulting from the failure
 3 of the municipality to implement the plan. The complaint must name
 4 the municipality as defendant and shall be filed with the circuit or
 5 superior court of the county in which the annexed territory is located.

6 (b) The court shall hear the case within sixty (60) days without a
 7 jury. In order to be granted relief, the plaintiff must establish one (1) of
 8 the following:

9 (1) That the municipality has without justification failed to
 10 implement the plan required by section 13 **or 13.1** of this chapter
 11 within the specific time limit for implementation after annexation.

12 (2) That the municipality has not provided police protection, fire
 13 protection, sanitary sewers, and water for human consumption
 14 within the specific time limit for implementation, unless one (1)
 15 of these services is being provided by a separate taxing district or
 16 by a privately owned public utility.

17 (3) That the annexed territory is not receiving governmental and
 18 proprietary services substantially equivalent in standard and scope
 19 to the services provided by the municipality to other areas of the
 20 municipality, regardless of topography, patterns of land use, and
 21 population density similar to the annexed territory.

22 (c) The court may:

23 (1) grant an injunction prohibiting the collection of taxes levied
 24 by the municipality on the plaintiff's property located in the
 25 annexed territory;

26 (2) award damages to the plaintiff not to exceed one and
 27 one-fourth (1 1/4) times the taxes collected by the municipality
 28 for the plaintiff's property located in the annexed territory;

29 (3) order the annexed territory or any part of it to be disannexed
 30 from the municipality;

31 (4) order the municipality to submit a revised fiscal plan for
 32 providing the services to the annexed territory within time limits
 33 set up by the court; or

34 (5) grant any other appropriate relief.

35 (d) A change of venue from the county is not permitted for an action
 36 brought under this section.

37 (e) If the court finds for the plaintiff, the defendant shall pay all
 38 court costs and reasonable attorney's fees as approved by the court.

39 (f) The provisions of this chapter that apply to territory disannexed
 40 by other procedures apply to territory disannexed under this section.

41 SECTION 21. IC 36-4-3-22 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:



1 Sec. 22. (a) **This section applies to a judgment filed after December**
 2 **31, 2014.** The clerk of the municipality shall do the following:

3 (1) File each annexation ordinance against which a remonstrance
 4 or an appeal has not been filed during the period permitted under
 5 this chapter or the certified copy of a **final and unappealable**
 6 judgment ordering an annexation to take place with each of the
 7 following:

8 (A) The county auditor of each county in which the annexed
 9 territory is located.

10 (B) The circuit court clerk of each county in which the
 11 annexed territory is located.

12 (C) If a board of registration exists, the registration board of
 13 each county in which the annexed territory is located.

14 (D) The office of the secretary of state.

15 (E) The office of census data established by IC 2-5-1.1-12.2.

16 (2) Record each annexation ordinance adopted under this chapter
 17 in the office of the county recorder of each county in which the
 18 annexed territory is located.

19 (b) The copy must be filed and recorded no later than ninety (90)
 20 days after:

21 (1) the expiration of the period permitted for a remonstrance or
 22 appeal; or

23 (2) the delivery of a certified **final and unappealable** order under
 24 section 15 of this chapter.

25 (c) Failure to record the annexation ordinance as provided in
 26 subsection (a)(2) does not invalidate the ordinance.

27 (d) The county auditor shall forward a copy of any annexation
 28 ordinance filed under this section to the following:

29 (1) The county highway department of each county in which the
 30 lots or lands affected are located.

31 (2) The county surveyor of each county in which the lots or lands
 32 affected are located.

33 (3) Each plan commission, if any, that lost or gained jurisdiction
 34 over the annexed territory.

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

37 (5) The township trustee of each township that lost or gained
 38 jurisdiction over the annexed territory.

39 (6) The office of the secretary of state.

40 (7) The office of census data established by IC 2-5-1.1-12.2.

41 (e) The county auditor may require the clerk of the municipality to
 42 furnish an adequate number of copies of the annexation ordinance or



1 may charge the clerk a fee for photoreproduction of the ordinance. The
 2 county auditor shall notify the office of the secretary of state and the
 3 office of census data established by IC 2-5-1.1-12.2 of the date that the
 4 annexation ordinance is effective under this chapter.

5 (f) The county auditor or county surveyor shall, upon determining
 6 that an annexation ordinance has become effective under this chapter,
 7 indicate the annexation upon the property taxation records maintained
 8 in the office of the auditor or the office of the county surveyor.

9 SECTION 22. IC 36-7-4-205, AS AMENDED BY P.L.207-2014,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 205. (a) ADVISORY. A
 12 municipal plan commission shall adopt a comprehensive plan, as
 13 provided for under the 500 series of the advisory planning law, for the
 14 development of the municipality. For comprehensive plans adopted
 15 after July 1, 1999, if:

16 (1) the municipality provides municipal services to the contiguous
 17 unincorporated area; or

18 (2) the municipal plan commission obtains the approval of the
 19 county legislative body of each affected county;

20 the municipal plan commission may provide in the comprehensive plan
 21 for the development of the contiguous unincorporated area, designated
 22 by the commission, that is outside the corporate boundaries of the
 23 municipality, and that, in the judgment of the commission, bears
 24 reasonable relation to the development of the municipality. For
 25 purposes of this section, participation of a municipality in a fire
 26 protection territory established under IC 36-8-19 that includes
 27 unincorporated areas contiguous to the municipality may not be treated
 28 as providing municipal services to the contiguous unincorporated areas.

29 (b) ADVISORY. Except as limited by the boundaries of
 30 unincorporated areas subject to the jurisdiction of other municipal plan
 31 commissions, an area designated under this section may include any
 32 part of the contiguous unincorporated area within two (2) miles from
 33 the corporate boundaries of the municipality. However, the following
 34 applies to the designation of an area under this section:

35 (1) If the corporate boundaries of the municipality or the
 36 boundaries of that contiguous unincorporated area include any
 37 part of the public waters or shoreline of a lake (which lies wholly
 38 within Indiana), the designated area may also include:

39 (A) any part of those public waters and shoreline of the lake;
 40 and

41 (B) any land area within two thousand five hundred (2,500)
 42 feet from that shoreline.



1 (2) This subdivision applies to a municipality that annexes
 2 noncontiguous territory under IC 36-4-3-4(a)(2) or
 3 IC 36-4-3-4(a)(3). The boundaries of the noncontiguous territory
 4 (including territory that is enlarged under subdivision
 5 IC 36-4-3-4(a)(2)(B) for the use of the wastewater treatment
 6 facility or water treatment facility) may not be considered a part
 7 of the corporate boundaries of the municipality for purposes of
 8 designating an area under this section.

9 **(3) This subdivision applies only to the annexation territory of**
 10 **an annexation ordinance adopted after December 31, 2014.**
 11 **Except as provided in subdivision (2), the boundary of an**
 12 **annexation territory may not be considered a part of the**
 13 **corporate boundaries of the municipality for purposes of**
 14 **designating an area under this section unless the county**
 15 **legislative body of each affected county adopts a resolution to**
 16 **include the annexation territory in the corporate boundaries**
 17 **of the municipality for purposes of designating an area under**
 18 **this section.**

19 (c) ADVISORY. Before exercising their rights, powers, and duties
 20 of the advisory planning law with respect to an area designated under
 21 this section, a municipal plan commission must file, with the recorder
 22 of the county in which the municipality is located, a description or map
 23 defining the limits of that area. If the commission revises the limits, it
 24 shall file, with the recorder, a revised description or map defining those
 25 revised limits.

26 (d) ADVISORY. If any part of the contiguous unincorporated area
 27 within the potential jurisdiction of a municipal plan commission is also
 28 within the potential jurisdiction of another municipal plan commission,
 29 the first municipal plan commission may exercise territorial jurisdiction
 30 over that part of the area within the potential jurisdiction of both
 31 municipal plan commissions that equals the product obtained by
 32 multiplying a fraction, the numerator of which is the area within the
 33 corporate boundaries of that municipality and the denominator of
 34 which is the total area within the corporate boundaries of both
 35 municipalities times the area within the potential jurisdiction of both
 36 municipal plan commissions. Furthermore, this commission may
 37 exercise territorial jurisdiction within those boundaries, enclosing an
 38 area reasonably compact and regular in shape, that the municipal plan
 39 commission first acting designates.

40 (e) ADVISORY. If the legislative body of a county adopts a
 41 comprehensive plan and ordinance covering the unincorporated areas
 42 of the county, a municipal plan commission may not exercise



1 jurisdiction, as provided in this section, over any part of that
 2 unincorporated area unless it is authorized by ordinance of the
 3 legislative body of the county. This ordinance may be initiated by the
 4 county legislative body or by petition duly signed and presented to the
 5 county auditor by:

6 (1) not less than fifty (50) property owners residing in the area
 7 involved in the petition;

8 (2) the county plan commission; or

9 (3) the municipal plan commission.

10 Before final action on the ordinance by the county legislative body, the
 11 county plan commission must hold an advertised public hearing as
 12 required for other actions of the county plan commission under the
 13 advisory planning law. Upon the passage of the ordinance by the
 14 county legislative body and the subsequent acceptance of jurisdiction
 15 by the municipal plan commission, the municipal plan commission
 16 shall exercise the same rights, powers, and duties conferred in this
 17 section exclusively with respect to the contiguous unincorporated area.
 18 The jurisdiction of a municipal plan commission, as authorized under
 19 this subsection, may be terminated by ordinance at the discretion of the
 20 legislative body of the county, but only if the county has adopted a
 21 comprehensive plan for that area that is as comprehensive in scope and
 22 subject matter as that in effect by municipal ordinance.

23 (f) ADVISORY. Each municipal plan commission in a municipality
 24 located in a county having:

25 (1) a population of less than ninety-five thousand (95,000); and

26 (2) a county plan commission that has adopted, in accord with the
 27 advisory planning law, a comprehensive plan and ordinance
 28 covering the unincorporated areas of the county;

29 may, at any time, after filing notice with the county recorder and the
 30 county plan commission, exercise or reject territorial jurisdiction over
 31 any part of the area within two (2) miles of the corporate boundaries of
 32 that municipality and within that county, whether or not that
 33 commission has previously exercised that jurisdiction, if the
 34 municipality is providing municipal services to the area. Within sixty
 35 (60) days after receipt of that notice, the county plan commission and
 36 the county legislative body shall have the county comprehensive plan
 37 and ordinance revised to reflect the decision of the municipal plan
 38 commission exercising the option provided for in this subsection. If the
 39 municipality is not providing municipal services to the area, the
 40 municipal plan commission must obtain the approval of the county
 41 legislative body of each affected county before exercising jurisdiction.

42 (g) AREA. Wherever in the area planning law authority is conferred



1 to establish a comprehensive plan or an ordinance for its enforcement,
 2 the authority applies everywhere:

- 3 (1) within the county that is outside the municipalities; and
 4 (2) within each participating municipality.

5 (h) ADVISORY—AREA. Whenever a new town is incorporated in
 6 a county having a county plan commission or an area plan commission,
 7 that plan commission and its board of zoning appeals shall continue to
 8 exercise territorial jurisdiction within the town until the effective date
 9 of a town ordinance:

- 10 (1) establishing an advisory plan commission under section
 11 202(a) of this chapter; or
 12 (2) adopting the area planning law under section 202(b) or 204 of
 13 this chapter.

14 Beginning on that effective date, the planning and zoning functions of
 15 the town shall be exercised under the advisory planning law or area
 16 planning law, as the case may be.

17 SECTION 23. IC 36-9-24-14 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:
 19 Sec. 14. A municipality that leases and operates sewage disposal
 20 facilities in an area within one (1) mile outside its corporate boundaries
 21 is considered to be furnishing sewage and sewer service in that area for
 22 purposes of IC 36-4-3-13 or **IC 36-4-3-13.1.**

23 SECTION 24. **An emergency is declared for this act.**

