



February 8, 2019

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## SENATE BILL No. 535

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DIGEST OF SB 535 (Updated February 7, 2019 12:23 pm - DI 87)

**Citations Affected:** IC 8-1.5; IC 36-1; IC 36-7; IC 36-8; IC 36-9; IC 36-10; noncode.

**Synopsis:** Extraterritorial powers of cities and towns. Repeals the general authority of a city or town (municipality) to exercise the following powers outside of its corporate boundaries: (1) Regulating conduct or property use endangering public health, safety, and welfare. (2) Capturing and destroying animals. (3) Operating recreational parks and exercising eminent domain to acquire property for park purposes. Provides that a municipality may only exercise eminent domain within the municipality unless a statute expressly provides otherwise. Repeals a provision that allows a municipality to exercise powers regarding watercourses within 10 miles outside its corporate boundaries. Requires a municipality to obtain the approval of the county executive before exercising advisory planning and zoning jurisdiction in the two mile area outside its municipal boundaries. Allows a municipality to continue to exercise eminent domain to acquire property outside its boundaries, if it has reached a specified point in the eminent domain proceedings on January 1, 2019.

**Effective:** January 1, 2019 (retroactive); July 1, 2019.

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### Boots

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January 14, 2019, read first time and referred to Committee on Local Government.  
February 7, 2019, amended, reported favorably — Do Pass.

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SB 535—LS 7190/DI 87





February 8, 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.

## SENATE BILL No. 535

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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 8-1.5-6-2, AS ADDED BY P.L.213-2014,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 2. As used in this chapter, "regulated territory"  
4 means the area outside the corporate boundaries of a municipality  
5 described in:  
6 (1) IC 36-9-2-18;  
7 ~~(2) IC 36-9-2-19;~~ or  
8 ~~(3)~~ **(2)** IC 36-9-23-36.  
9 SECTION 2. IC 36-1-4-5 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2019]: Sec. 5. **(a) Except as provided in**  
11 **subsection (b),** a unit may acquire by eminent domain or other means,  
12 and own interests in real and personal property.  
13 **(b) A municipality may exercise the powers in subsection (a),**  
14 **except for the power of eminent domain, within four (4) miles**  
15 **outside of its corporate boundaries. A municipality may not**

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1 **exercise the power of eminent domain outside of its corporate**  
 2 **boundaries, unless a statute expressly provides otherwise.**

3 SECTION 3. IC 36-1-4-6 IS AMENDED TO READ AS FOLLOWS  
 4 [EFFECTIVE JULY 1, 2019]: Sec. 6. A unit may use, improve,  
 5 develop, insure, protect, maintain, lease, and dispose of its interests in  
 6 property. **A municipality may exercise the powers granted in this**  
 7 **section within four (4) miles outside of its corporate boundaries.**

8 SECTION 4. IC 36-1-4-18 IS REPEALED [EFFECTIVE JULY 1,  
 9 2019]. ~~Sec. 18: A municipality may exercise powers granted by~~  
 10 ~~sections 5 and 6 of this chapter in areas within four (4) miles outside~~  
 11 ~~its corporate boundaries.~~

12 SECTION 5. IC 36-7-4-205, AS AMENDED BY P.L.207-2014,  
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2019]: Sec. 205. (a) ADVISORY. A municipal plan  
 15 commission shall adopt a comprehensive plan, as provided for under  
 16 the 500 series of the advisory planning law, for the development of the  
 17 municipality. For comprehensive plans adopted after ~~July 1, 1999;~~  
 18 **June 30, 2019**, if ~~(1) the municipality provides municipal services to~~  
 19 ~~the contiguous unincorporated area; or (2) the municipal plan~~  
 20 ~~commission obtains the approval of the county legislative body of each~~  
 21 ~~affected county, the municipal plan commission may provide in the~~  
 22 ~~comprehensive plan for the development of the contiguous~~  
 23 ~~unincorporated area, designated by the commission, that is outside the~~  
 24 ~~corporate boundaries of the municipality, and that, in the judgment of~~  
 25 ~~the commission, bears reasonable relation to the development of the~~  
 26 ~~municipality. For purposes of this section, participation of a~~  
 27 ~~municipality in a fire protection territory established under IC 36-8-19~~  
 28 ~~that includes unincorporated areas contiguous to the municipality may~~  
 29 ~~not be treated as providing municipal services to the contiguous~~  
 30 ~~unincorporated areas.~~

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

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

41 (A) any part of those public waters and shoreline of the lake;  
 42 and



- 1 (B) any land area within two thousand five hundred (2,500)  
2 feet from that shoreline.
- 3 (2) This subdivision applies to a municipality that annexes  
4 noncontiguous territory under IC 36-4-3-4(a)(2) or  
5 IC 36-4-3-4(a)(3). The boundaries of the noncontiguous territory  
6 (including territory that is enlarged under subdivision  
7 IC 36-4-3-4(a)(2)(B) for the use of the wastewater treatment  
8 facility or water treatment facility) may not be considered a part  
9 of the corporate boundaries of the municipality for purposes of  
10 designating an area under this section.
- 11 (c) ADVISORY. Before exercising their rights, powers, and duties  
12 of the advisory planning law with respect to an area designated under  
13 this section, a municipal plan commission must file, with the recorder  
14 of the county in which the municipality is located, a description or map  
15 defining the limits of that area. If the commission revises the limits, it  
16 shall file, with the recorder, a revised description or map defining those  
17 revised limits.
- 18 (d) ADVISORY. If any part of the contiguous unincorporated area  
19 within the potential jurisdiction of a municipal plan commission is also  
20 within the potential jurisdiction of another municipal plan commission,  
21 the first municipal plan commission may exercise territorial jurisdiction  
22 over that part of the area within the potential jurisdiction of both  
23 municipal plan commissions that equals the product obtained by  
24 multiplying a fraction, the numerator of which is the area within the  
25 corporate boundaries of that municipality and the denominator of  
26 which is the total area within the corporate boundaries of both  
27 municipalities times the area within the potential jurisdiction of both  
28 municipal plan commissions. Furthermore, this commission may  
29 exercise territorial jurisdiction within those boundaries, enclosing an  
30 area reasonably compact and regular in shape, that the municipal plan  
31 commission first acting designates.
- 32 (e) ADVISORY. If the legislative body of a county adopts a  
33 comprehensive plan and ordinance covering the unincorporated areas  
34 of the county, a municipal plan commission may not exercise  
35 jurisdiction, as provided in this section, over any part of that  
36 unincorporated area unless it is authorized by ordinance of the  
37 legislative body of the county. This ordinance may be initiated by the  
38 county legislative body or by petition duly signed and presented to the  
39 county auditor by:
- 40 (1) not less than fifty (50) property owners residing in the area  
41 involved in the petition;
- 42 (2) the county plan commission; or



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

15 ~~(f) ADVISORY. Each municipal plan commission in a municipality~~  
 16 ~~located in a county having:~~

- 17 ~~(1) a population of less than ninety-five thousand (95,000); and~~  
 18 ~~(2) a county plan commission that has adopted, in accord with the~~  
 19 ~~advisory planning law, a comprehensive plan and ordinance~~  
 20 ~~covering the unincorporated areas of the county;~~

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

34 ~~(g) (f) AREA. Wherever in the area planning law authority is~~  
 35 ~~conferred to establish a comprehensive plan or an ordinance for its~~  
 36 ~~enforcement, the authority applies everywhere:~~

- 37 ~~(1) within the county that is outside the municipalities; and~~  
 38 ~~(2) within each participating municipality.~~

39 ~~(h) (g) ADVISORY—AREA. Whenever a new town is incorporated~~  
 40 ~~in a county having a county plan commission or an area plan~~  
 41 ~~commission, that plan commission and its board of zoning appeals shall~~  
 42 ~~continue to exercise territorial jurisdiction within the town until the~~



1 effective date of a town ordinance:

- 2 (1) establishing an advisory plan commission under section  
3 202(a) of this chapter; or  
4 (2) adopting the area planning law under section 202(b) or 204 of  
5 this chapter.

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

9 SECTION 6. IC 36-8-2-5 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2019]: Sec. 5. **(a)** A unit may **do the following:**

- 11 (1) Provide medical care or other health and community services  
12 to persons. ~~and may~~  
13 (2) Impose restrictions upon persons or animals that might cause  
14 other persons or animals to be injured or contract diseases.  
15 (3) ~~A unit may also~~ Establish, aid, maintain, and operate  
16 hospitals.

17 **(b) A municipality may exercise powers granted by subsection**  
18 **(a)(1) and (a)(3) of this chapter in areas within four (4) miles**  
19 **outside its corporate boundaries.**

20 SECTION 7. IC 36-8-2-6 IS AMENDED TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2019]: Sec. 6. **(a)** A unit may:

- 22 (1) capture and destroy animals if necessary; and ~~may~~  
23 (2) establish, maintain, and operate animal shelters.

24 **(b) A municipality may exercise the powers in subsection (a)(2)**  
25 **within four (4) miles outside its corporate boundaries.**

26 SECTION 8. IC 36-8-2-13 IS REPEALED [EFFECTIVE JULY 1,  
27 2019]. ~~Sec. 13. A municipality may exercise powers granted by~~  
28 ~~sections 4, 5 and 6 of this chapter in areas within four (4) miles outside~~  
29 ~~its corporate boundaries.~~

30 SECTION 9. IC 36-9-2-19 IS REPEALED [EFFECTIVE JULY 1,  
31 2019]. ~~Sec. 19. A municipality may exercise powers granted by~~  
32 ~~sections 9, 10, 11, 12, and 13 of this chapter in areas within ten (10)~~  
33 ~~miles outside its corporate boundaries.~~

34 SECTION 10. IC 36-10-4-21 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. (a) The board may  
36 exercise the power of eminent domain **for the purposes of this**  
37 **chapter:**

- 38 (1) within the corporate boundaries of the city; and  
39 (2) **before July 1, 2019**, outside of the city within:  
40 (A) ten (10) miles; or  
41 (B) five (5) miles if the city adopted this chapter by ordinance  
42 under IC 19-7-9 (before its repeal on September 1, 1981);



1 of the corporate boundaries of the city and within the county in which  
 2 the city is located. ~~for the purposes of this chapter.~~ The board may  
 3 award damages to landowners for real property and property rights  
 4 appropriated or injuriously affected and assess benefits to property  
 5 beneficially affected. If the board cannot agree with the owners,  
 6 lessees, or occupants of any real property selected by the board for the  
 7 purposes of this chapter, the board may condemn the property as  
 8 provided in this chapter, and, when not inconsistent with this chapter,  
 9 may proceed under statutes governing the condemnation of land and  
 10 rights-of-way for other public purposes.

11 (b) If the land or surface of the ground on, over, or across which it  
 12 is necessary or advisable to establish, construct, or improve a  
 13 boulevard, parkway, or pleasure driveway is already in use for another  
 14 public purpose or has been condemned or appropriated for a use  
 15 authorized by statute and is being used for that purpose by the entity  
 16 appropriating it, the public use or prior condemnation does not bar the  
 17 board from condemning the use of the ground for park purposes.  
 18 However, the use by the board does not permanently prevent the use of  
 19 the land or the surface of the ground for the prior public use or by the  
 20 entity condemning or appropriating it. In a proceeding prosecuted by  
 21 the board to condemn the use of land or the surface of the ground for  
 22 purposes permitted by this chapter, the board must show that its  
 23 proposed use will not permanently or seriously interfere with the  
 24 continued use of the land or the surface of the ground.

25 SECTION 11. IC 36-10-5-2, AS AMENDED BY P.L.119-2012,  
 26 SECTION 238, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) This section applies to:

28 (1) third class cities and towns, unless otherwise provided by law;  
 29 and

30 (2) each second class city that:

31 (A) adopted second class city status by ordinance under  
 32 IC 36-4-1-1.1, as a result of the 2010 federal decennial census;  
 33 and

34 (B) has adopted all or part of this section by ordinance or  
 35 resolution.

36 (b) As used in this section, "park authority" means:

37 (1) the municipal legislative body; or

38 (2) any of the following designated by the legislative body as the  
 39 park authority:

40 (A) The governing body of the school corporation.

41 (B) A recreation board.

42 (C) The municipal works board.





- 1 (D) Any other appropriate board or commission.
- 2 (c) If a recreation board is established under subsection (b)(2)(B),  
 3 it must consist of five (5) resident freeholders appointed by the city  
 4 executive or the town legislative body. At least one (1) member must  
 5 be a member of the governing body of the school corporation and no  
 6 members may serve on the municipal legislative body. All members  
 7 must be qualified by an interest in and knowledge of the social and  
 8 educational value of recreation. The members serve without  
 9 compensation. The members shall be appointed for four (4) year terms  
 10 from January 1 of the year of their appointment or until their successors  
 11 are appointed. The initial terms of board members, however, are as  
 12 follows:
- 13 (1) One (1) for a term of one (1) year.  
 14 (2) One (1) for a term of two (2) years.  
 15 (3) One (1) for a term of three (3) years.  
 16 (4) Two (2) for terms of four (4) years.
- 17 A vacancy shall be filled by the appointing authority for the remainder  
 18 of the unexpired term.
- 19 (d) The park authority shall manage all public parks, including  
 20 approaches, that belong to the municipality.
- 21 (e) If a municipality decides, by ordinance, to establish, lay out, or  
 22 improve a public park or grounds, or to make an extension of a park or  
 23 grounds, it may locate the park or grounds, including appurtenances,  
 24 and it may lay out and open the public ways necessary for the  
 25 improvement. If it is necessary to acquire land, water rights, or  
 26 easements, or a pool, lake, or natural stream of water, the park authority  
 27 may condemn that property and take possession of it if it is located  
 28 within ~~five (5) miles~~ **the corporate boundaries** of the municipality.  
 29 Before the park authority condemns the property, it shall assess the  
 30 damages to the owners of the property at a meeting of the authority.  
 31 Additional condemnation proceedings are the same as those provided  
 32 for the taking of property to open streets.
- 33 (f) The park authority may adopt rules concerning the laying out,  
 34 improvement, preservation, ornamentation, and management of parks.  
 35 The park authority shall allow monuments or buildings for libraries,  
 36 works of art, or historical collections to be erected in a park, as long as  
 37 they are under the control of the persons in charge of the park and no  
 38 inclosure separates them from the rest of the park.
- 39 (g) The legislative body of the municipality may also levy a tax on  
 40 all taxable property in the municipality to pay for park property and for  
 41 its improvement. The legislative body may also borrow money and  
 42 issue the bonds of the municipality at any rate of interest payable



1 annually or semiannually and may sell them for at least par value. The  
 2 money derived from the sale of bonds may be used only for the  
 3 purchase or improvement of parks. The legislative body shall annually  
 4 levy a tax sufficient to pay the interest on the debt on all taxable  
 5 property in the municipality to create a sinking fund for the liquidation  
 6 of the principal of the debt.

7 (h) If the park authority of a city decides to lease any buildings or  
 8 grounds belonging to the city and located in a public park when they  
 9 are not required for public use, the proceeds shall be deposited with the  
 10 city fiscal officer to the credit of park funds and devoted to the  
 11 improvement of public parks.

12 (i) Any nonreverting fund that was created under IC 19-7-6 (before  
 13 its repeal on September 1, 1981) continues until abolished by ordinance  
 14 of the municipal legislative body. The legislative body may include in  
 15 the park authority's annual budget an item and an appropriation for the  
 16 specific purposes of a nonreverting capital fund. Money put in the fund  
 17 may not be withdrawn except for the purposes for which the fund was  
 18 created, unless the legislative body repeals the ordinance creating the  
 19 fund. The repeal may not be made under suspension of the rules.  
 20 Money procured from fees shall be deposited at least once each month  
 21 with the municipal fiscal officer. The fiscal officer shall deposit the  
 22 money either in a special nonreverting operating fund or in the  
 23 nonreverting capital fund as directed by the park authority. The  
 24 legislative body may provide by ordinance that expenditures may be  
 25 made from the special nonreverting operating fund without  
 26 appropriation. Money from fees procured from golf courses, swimming  
 27 pools, skating rinks, or other similar facilities requiring major  
 28 expenditures for management and maintenance may not be deposited  
 29 in this fund. Money from either fund shall be disbursed only on  
 30 approved claims that are allowed and signed in the same manner as  
 31 other claims of the municipality are allowed and signed.

32 SECTION 12. [EFFECTIVE JANUARY 1, 2019  
 33 (RETROACTIVE)] (a) **This SECTION applies only to a  
 34 municipality that exercises the power of eminent domain in the  
 35 area outside of its corporate boundaries:**

36 **(1) under the sole authority of IC 36-1-4-18 (before its repeal  
 37 July 1, 2019) or IC 36-10-4-21 (before its amendment July 1,  
 38 2019) to exercise the power of eminent domain outside of its  
 39 corporate boundaries; and**

40 **(2) not under the authority of any other statute that expressly  
 41 provides that the municipality may exercise the power of  
 42 eminent domain outside of its corporate boundaries.**



1           **(b) The repeal of IC 36-1-4-18 by this act, and IC 36-10-4-21, as**  
2 **amended by this act, do not affect a municipality's exercise of the**  
3 **power of eminent domain to acquire property outside its corporate**  
4 **boundaries if:**  
5           **(1) the works board of the municipality has adopted a**  
6 **resolution under IC 32-24-2-6; or**  
7           **(2) the municipality filed a complaint under IC 32-24-1 after**  
8 **the property owner rejected the municipality's acquisition**  
9 **offer;**  
10 **not later than January 1, 2019.**  
11           **(c) This SECTION expires January 1, 2021.**  
12           **SECTION 13. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 535, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 12 through 42.

Delete pages 3 through 9.

Page 10, delete lines 1 through 27, begin a new paragraph and insert:

"SECTION 5. IC 36-7-4-205, AS AMENDED BY P.L.207-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 205. (a) ADVISORY. A municipal plan commission shall adopt a comprehensive plan, as provided for under the 500 series of the advisory planning law, for the development of the municipality. For comprehensive plans adopted after ~~July 1, 1999;~~ **June 30, 2019**, if ~~(1) the municipality provides municipal services to the contiguous unincorporated area; or (2) the municipal plan commission obtains the approval of the county legislative body of each affected county, the municipal plan commission may provide in the comprehensive plan for the development of the contiguous unincorporated area, designated by the commission, that is outside the corporate boundaries of the municipality, and that, in the judgment of the commission, bears reasonable relation to the development of the municipality. For purposes of this section, participation of a municipality in a fire protection territory established under IC 36-8-19 that includes unincorporated areas contiguous to the municipality may not be treated as providing municipal services to the contiguous unincorporated areas.~~

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

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

- (A) any part of those public waters and shoreline of the lake; and
- (B) any land area within two thousand five hundred (2,500)



feet from that shoreline.

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

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

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

(e) ADVISORY. If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:

- (1) not less than fifty (50) property owners residing in the area involved in the petition;
- (2) the county plan commission; or
- (3) the municipal plan commission.



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

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

- ~~(1)~~ a population of less than ninety-five thousand (95,000); and
- ~~(2)~~ a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county;

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

~~(g)~~ **(f) AREA.** Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:

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

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



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

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

Page 10, delete lines 40 through 42.

Page 11, delete lines 1 through 7, begin a new paragraph and insert: "SECTION 7. IC 36-8-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. **(a)** A unit may:

- (1)** capture and destroy animals if necessary; and ~~may~~
- (2)** establish, maintain, and operate animal shelters.

**(b) A municipality may exercise the powers in subsection (a)(2) within four (4) miles outside its corporate boundaries."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 535 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 1.

