

# SENATE BILL No. 242

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-4-3.

**Synopsis:** Annexation. Specifies the information that must be contained in an annexation ordinance. Provides that a county auditor shall forward a copy of an annexation ordinance to the secretary of state. Provides that an annexation does not take effect until a copy of the annexation ordinance is filed with the secretary of state. Requires the county auditor to notify the secretary of state of the date an annexation ordinance or a disannexation becomes effective. Provides that the secretary of state must receive various filings and notices concerning a disannexation proceeding. Provides that the township  
(Continued next page)

**Effective:** July 1, 1998.

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January 7, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

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trustee must receive a notice of an annexation or disannexation. Provides that certain annexation filing requirements are satisfied if annexation is entered by the county auditor on the property tax records as having become effective before July 1, 1998. Provides that certain disannexation filing requirements are satisfied if the disannexation order is filed with the circuit court clerk before July 1, 1998.

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Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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## SENATE BILL No. 242



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

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

- 1 SECTION 1. IC 36-4-3-3.5 IS ADDED TO THE INDIANA CODE
- 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 1998]: **Sec. 3.5. (a) This section does not apply to an annexation**
- 4 **under section 5 of this chapter.**
- 5 **(b) An ordinance adopted under section 3 or 4 of this chapter**
- 6 **must contain at least the following information:**
- 7 **(1) A legal description of the boundaries of the territory to be**
- 8 **annexed.**
- 9 **(2) The total number of acres in the territory to be annexed.**
- 10 **(3) A description of any special terms and conditions adopted**
- 11 **under section 8 of this chapter.**
- 12 **(4) A description of any property tax abatements adopted**
- 13 **under section 8.5 of this chapter.**
- 14 SECTION 2. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 1998]: **Sec. 7. (a) After an ordinance is adopted**



1 under section 3, 4, or 5 of this chapter, it must be published in the  
 2 manner prescribed by IC 5-3-1. Except as provided in subsection (b) or  
 3 (c), in the absence of remonstrance and appeal under section 11 or 15.5  
 4 of this chapter, the ordinance takes effect at least sixty (60) days after  
 5 its publication and upon the filing required by section 22(a) **and**  
 6 **22(d)(4)** of this chapter.

7 (b) An ordinance described in subsection (d) or adopted under  
 8 section 3, 4, or 5 of this chapter may not take effect during the year  
 9 preceding a year in which a federal decennial census is conducted. An  
 10 ordinance that would otherwise take effect during the year preceding  
 11 a year in which a federal decennial census is conducted takes effect  
 12 January 2 of the year in which a federal decennial census is conducted.

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

15 (d) Except as provided in subsection (b), whenever a municipality  
 16 annexes territory, all or part of which lies within a fire protection  
 17 district ( IC 36-8-11), the annexation ordinance (in the absence of  
 18 remonstrance and appeal under section 11 or 15.5 of this chapter) takes  
 19 effect the second January 1 that follows the date the ordinance is  
 20 adopted and upon the filing required by section 22(a) **and 22(d)(4)** of  
 21 this chapter. The municipality shall:

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

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

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

41 SECTION 3. IC 36-4-3-19, AS AMENDED BY P.L.3-1997,  
 42 SECTION 455, IS AMENDED TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) If disannexation is ordered  
 2 under this chapter by the works board of a municipality and no appeal  
 3 is taken, the clerk of the municipality shall, without compensation and  
 4 not later than ten (10) days after the order is made, make and certify a  
 5 complete transcript of the disannexation proceedings to the auditor of  
 6 each county in which the disannexed lots or lands lie ~~and to the state~~  
 7 ~~certifying official designated under IC 3-6-4.2-11.~~ **and to the office of**  
 8 **the secretary of state.** The county auditor shall list those lots or lands  
 9 appropriately for taxation. The proceedings of the works board shall not  
 10 be certified to the county auditor if an appeal to the circuit court has  
 11 been taken.

12 (b) In all proceedings begun in or appealed to the circuit court, if  
 13 vacation or disannexation is ordered, the clerk of the court shall  
 14 immediately after the judgment of the court, or after a decision on  
 15 appeal to the supreme court or court of appeals if the judgment on  
 16 appeal is not reversed, certify the judgment of the circuit court, as  
 17 affirmed or modified, to:

- 18 (1) the auditor of each county in which the lands or lots affected
- 19 lie, on receipt of one dollar (\$1) for the making and certifying of
- 20 the transcript from the petitioners for the disannexation;
- 21 (2) ~~the state certifying official designated under IC 3-6-4.2-11;~~
- 22 **office of the secretary of state;** and
- 23 (3) the circuit court clerk, and if a board of registration exists, the
- 24 board of each county in which the lands or lots affected are
- 25 located.

26 (c) The county auditor shall forward a list of lots or lands  
 27 disannexed under this section to the following:

- 28 (1) The county highway department.
- 29 (2) The county surveyor.
- 30 (3) Each plan commission, if any, that lost or gained jurisdiction
- 31 over the disannexed territory.
- 32 (4) ~~Any state agency that has requested copies of disannexations~~
- 33 ~~filed with the county auditor under this section.~~ **The township**
- 34 **trustee of each township that lost or gained jurisdiction over**
- 35 **the disannexed territory.**
- 36 (5) **The office of the secretary of state.**

37 The county auditor may require the clerk of the municipality to furnish  
 38 an adequate number of copies of the list of disannexed lots or lands or  
 39 may charge the clerk a fee for photoreproduction of the list.

40 (d) A disannexation described by this section takes effect upon the  
 41 **clerk of the municipality** filing of the order with: ~~the circuit court~~  
 42 ~~clerk and the state certifying official.~~



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1 (1) the county auditor of each county in which the annexed  
2 territory is located; and

3 (2) the circuit court clerk, or if a board of registration exists,  
4 the board of each county in which the annexed territory is  
5 located.

6 (e) The clerk of the municipality shall notify the office of the  
7 secretary of state of the date a disannexation is effective under this  
8 chapter.

9 ~~(e)~~ (f) A disannexation order under this chapter may not take effect  
10 during the year preceding a year in which a federal decennial census is  
11 conducted. A disannexation order that would otherwise take effect  
12 during the year preceding a year in which a federal decennial census is  
13 conducted takes effect January 2 of the year in which a federal  
14 decennial census is conducted.

15 SECTION 4. IC 36-4-3-22, AS AMENDED BY P.L.3-1997,  
16 SECTION 456, IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 1998]: Sec. 22. (a) The clerk of the  
18 municipality shall:

19 (1) file each annexation ordinance against which a remonstrance  
20 or appeal has not been filed during the period permitted under this  
21 chapter or the certified copy of a judgment ordering an annexation  
22 to take place with:

23 (A) the county auditor of each county in which the annexed  
24 territory is located; **and**

25 (B) the circuit court clerk, ~~and~~ **or** if a board of registration  
26 exists, the board of each county in which the annexed territory  
27 is located; and

28 ~~(C) the state certifying official designated under IC 3-6-4.2-11;~~  
29 ~~and~~

30 (2) record each annexation ordinance adopted under this chapter  
31 in the office of the county recorder of each county in which the  
32 annexed territory is located.

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

35 (1) the expiration of the period permitted for a remonstrance or  
36 appeal; or

37 (2) the delivery of a certified order under section 15 of this  
38 chapter.

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

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



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- 1 (1) The county highway department.  
 2 (2) The county surveyor.  
 3 (3) Each plan commission, if any, that lost or gained jurisdiction  
 4 over the annexed territory.  
 5 (4) ~~Any state agency that has requested copies of annexations~~  
 6 ~~filed with the county auditor under this section. The township~~  
 7 ~~trustee of each township that lost or gained jurisdiction over~~  
 8 ~~the annexed territory.~~  
 9 (5) **The office of the secretary of state.**  
 10 (e) The county auditor may require the clerk of the municipality to  
 11 furnish an adequate number of copies of the annexation ordinance or  
 12 may charge the clerk a fee for photoreproduction of the ordinance. **The**  
 13 **county auditor shall notify the office of the secretary of state of the**  
 14 **date that the annexation ordinance is effective under this chapter.**  
 15 (f) The county auditor shall, upon determining that an annexation  
 16 ordinance has become effective under this chapter, indicate the  
 17 annexation upon the property taxation records maintained in the office  
 18 of the auditor.  
 19 SECTION 5. [EFFECTIVE JULY 1, 1998] (a) **Notwithstanding**  
 20 **IC 36-4-3-22 as amended by this act, the requirements of**  
 21 **IC 36-4-3-22(a) are satisfied if the annexation is entered by the**  
 22 **county auditor on the property tax records as having become**  
 23 **effective as set forth in IC 36-4-3-22(f) before July 1, 1998.**  
 24 (b) **Notwithstanding IC 36-4-3-19 as amended by this act, the**  
 25 **requirements of IC 36-4-3-19(d) are satisfied if the disannexation**  
 26 **order is filed with the circuit court clerk under IC 36-4-3-19(d)**  
 27 **before July 1, 1998.**

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