

HOUSE BILL No. 1288

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3-13.

Synopsis: Annexation. Requires a court at an annexation hearing to order an annexation by a city not to take place if all of the following conditions exist: (1) Police and fire protection and street and road maintenance are supplied by a provider other than the city seeking annexation. (2) The annexation will have a significant impact on the residents or owners of land. (3) A majority of the owners of the land proposed to be annexed or owners of more than 75% of the assessed valuation of the land proposed to be annexed are opposed to the annexation. (Current law specifies that the provision applies only to cities located in St. Joseph County.)

Effective: July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Local Government.

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Introduced

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1288

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 36-4-3-13, AS AMENDED BY P.L.255-1997(ss),
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 13. (a) Except as provided in subsection (e), at the
4 hearing under section 12 of this chapter, the court shall order a
5 proposed annexation to take place if the following requirements are
6 met:
- 7 (1) The requirements of either subsection (b) or (c).
 - 8 (2) The requirements of subsection (d).
- 9 (b) The requirements of this subsection are met if the evidence
10 establishes the following:
- 11 (1) That the territory sought to be annexed is contiguous to the
12 municipality.
 - 13 (2) One (1) of the following:
 - 14 (A) The resident population density of the territory sought
15 to be annexed is at least three (3) persons per acre.
 - 16 (B) Sixty percent (60%) of the territory is subdivided.
 - 17 (C) The territory is zoned for commercial, business, or

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- 1 industrial uses.
- 2 (c) The requirements of this subsection are met if the evidence
3 establishes the following:
- 4 (1) That the territory sought to be annexed is contiguous to the
5 municipality as required by section 1.5 of this chapter, except
6 that at least one-fourth (1/4), instead of one-eighth (1/8), of the
7 aggregate external boundaries of the territory sought to be
8 annexed must coincide with the boundaries of the municipality.
- 9 (2) That the territory sought to be annexed is needed and can be
10 used by the municipality for its development in the reasonably
11 near future.
- 12 (d) The requirements of this subsection are met if the evidence
13 establishes that the municipality has developed a written fiscal plan and
14 has established a definite policy, by resolution of the legislative body,
15 as of the date of passage of the annexation ordinance. The resolution
16 must show the following:
- 17 (1) The cost estimates of planned services to be furnished to the
18 territory to be annexed.
- 19 (2) The method or methods of financing the planned services.
- 20 (3) The plan for the organization and extension of services.
- 21 (4) That planned services of a noncapital nature, including police
22 protection, fire protection, street and road maintenance, and
23 other noncapital services normally provided within the corporate
24 boundaries, will be provided to the annexed territory within one
25 (1) year after the effective date of annexation, and that they will
26 be provided in a manner equivalent in standard and scope to
27 those noncapital services provided to areas within the corporate
28 boundaries that have similar topography, patterns of land use,
29 and population density. However, in a county having a
30 population of more than two hundred thousand (200,000) but
31 less than three hundred thousand (300,000), the resolution of a
32 city must show that these services will be provided in a manner
33 equivalent in standard and scope to those noncapital services
34 provided to areas within the corporate boundaries, regardless of
35 similar topography, patterns of land use, or population density.
- 36 (5) That services of a capital improvement nature, including
37 street construction, street lighting, sewer facilities, water
38 facilities, and stormwater drainage facilities, will be provided to
39 the annexed territory within three (3) years after the effective
40 date of the annexation, in the same manner as those services are
41 provided to areas within the corporate boundaries, that have
42 similar topography, patterns of land use, and population density,

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1 and in a manner consistent with federal, state, and local laws,
 2 procedures, and planning criteria. However, in a county having
 3 a population of more than two hundred thousand (200,000) but
 4 less than three hundred thousand (300,000), the resolution of a
 5 city must show that these services will be provided to the
 6 annexed territory within four (4) years after the effective date of
 7 the annexation and in the same manner as those services are
 8 provided to areas within the corporate boundaries, regardless of
 9 similar topography, patterns of land use, or population density.
 10 (6) The plan for hiring the employees of other governmental
 11 entities whose jobs will be eliminated by the proposed
 12 annexation, although the municipality is not required to hire any
 13 employees.

14 (e) ~~This subsection applies only to cities located in a county~~
 15 ~~having a population of more than two hundred thousand (200,000) but~~
 16 ~~less than three hundred thousand (300,000). However, This subsection~~
 17 ~~does not apply to territory located in a county having a population~~
 18 **of more than two hundred thousand (200,000) but less than three**
 19 **hundred thousand (300,000)** if on April 1, 1993, the entire boundary
 20 of the territory that is proposed to be annexed was contiguous to
 21 territory that was within the boundaries of one (1) or more
 22 municipalities. At the hearing under section 12 of this chapter, the
 23 court shall do the following:

- 24 (1) Consider evidence on the conditions listed in subdivision (2).
 25 (2) Order a proposed annexation not to take place if the court
 26 finds that all of the following conditions exist in the territory
 27 proposed to be annexed:

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

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

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

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

- 35 (i) A majority of the owners of land in the territory
 36 proposed to be annexed.
 37 (ii) The owners of more than seventy-five percent
 38 (75%) in assessed valuation of the land in the territory
 39 proposed to be annexed.

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

42 (f) The federal census data established by IC 1-1-4-5(17) shall be

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1 used as evidence of resident population density for purposes of
2 subsection (b)(2)(A), but this evidence may be rebutted by other
3 evidence of population density.

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