

SENATE BILL No. 242

DIGEST OF SB 242 (Updated February 2, 1998 4:56 pm - DI 87)

Citations Affected: IC 36-4; noncode.

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 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 on or after July 1, 1997 and before July 1, 1998. Provides that certain disannexation filing requirements are
(Continued next page)

Effective: July 1, 1998.

Gard

January 8, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 29, 1998, amended, reported favorably — Do Pass.

February 2, 1998, read second time, amended, ordered engrossed.

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Digest Continued

satisfied if the disannexation order is filed with the circuit court clerk on or after July 1, 1997 and before July 1, 1998. Requires the Indiana advisory commission on intergovernmental relations to study the issue of updating and revising the statutes concerning municipal annexation of territory and submit a report to the legislative council. Provides that with certain exceptions, that if: (1) a municipality that adopts an annexation ordinance after the effective date of the act and before July 1, 1999; and (2) a remonstrance is filed that the court determines to be sufficient; the annexation ordinance is void.

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Reprinted
February 3, 1998

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**

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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~~ **when the requirements**
 6 **of section 22(a) and 22(d)(5) of this chapter have been satisfied.**

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~~ **when the requirements of**
 21 **section 22(a) and 22(d)(5) of this chapter have been satisfied.** The
 22 municipality shall:

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

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

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

42 SECTION 3. IC 36-4-3-15, AS AMENDED BY P.L.2-1997,

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1 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 1998]: Sec. 15. (a) The court's judgment under section 12 or
3 15.5 of this chapter must specify the annexation ordinance on which
4 the remonstrance is based. The clerk of the court shall deliver a
5 certified copy of the judgment to the clerk of the municipality. The
6 clerk of the municipality shall:

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

10 (b) If a judgment under section 12 or 15.5 of this chapter is adverse
11 to annexation, the municipality may not make further attempts to annex
12 the territory during the two (2) years after the later of:

- 13 (1) the judgment of the circuit or superior court; or
14 (2) the date of the final disposition of all appeals to a higher court;

15 unless the annexation is petitioned for under section 5 of this chapter.

16 (c) If a judgment under section 12 or 15.5 of this chapter orders the
17 annexation to take place, the annexation is effective when the ~~clerk of~~
18 ~~the municipality complies with the filing requirement requirements of~~
19 ~~section 22(a) and 22(d)(5) of this chapter are satisfied.~~

20 SECTION 4. IC 36-4-3-19, AS AMENDED BY P.L.3-1997,
21 SECTION 455, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) If disannexation is ordered
23 under this chapter by the works board of a municipality and no appeal
24 is taken, the clerk of the municipality shall, without compensation and
25 not later than ten (10) days after the order is made, make and certify a
26 complete transcript of the disannexation proceedings to the auditor of
27 each county in which the disannexed lots or lands lie ~~and to the state~~
28 ~~certifying official designated under IC 3-6-4.2-11; and to the office of~~
29 ~~the secretary of state.~~ The county auditor shall list those lots or lands
30 appropriately for taxation. The proceedings of the works board shall not
31 be certified to the county auditor if an appeal to the circuit court has
32 been taken.

33 (b) In all proceedings begun in or appealed to the circuit court, if
34 vacation or disannexation is ordered, the clerk of the court shall
35 immediately after the judgment of the court, or after a decision on
36 appeal to the supreme court or court of appeals if the judgment on
37 appeal is not reversed, certify the judgment of the circuit court, as
38 affirmed or modified, to:

- 39 (1) the auditor of each county in which the lands or lots affected
40 lie, on receipt of one dollar (\$1) for the making and certifying of
41 the transcript from the petitioners for the disannexation;
42 (2) ~~the state certifying official designated under IC 3-6-4.2-11;~~



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1 **office of the secretary of state; and**

2 (3) the circuit court clerk, and if a board of registration exists, the
3 board of each county in which the lands or lots affected are
4 located.

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

7 (1) The county highway department.

8 (2) The county surveyor.

9 (3) Each plan commission, if any, that lost or gained jurisdiction
10 over the disannexed territory.

11 (4) ~~Any state agency that has requested copies of disannexations~~
12 ~~filed with the county auditor under this section. The township~~
13 ~~trustee of each township that lost or gained jurisdiction over~~
14 ~~the disannexed territory.~~

15 (5) **The office of the secretary of state.**

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

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

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

24 (2) **the circuit court clerk, or if a board of registration exists,**
25 **the board of each county in which the annexed territory is**
26 **located.**

27 (e) **The clerk of the municipality shall notify the office of the**
28 **secretary of state of the date a disannexation is effective under this**
29 **chapter.**

30 ~~(e)~~ (f) A disannexation order under this chapter may not take effect
31 during the year preceding a year in which a federal decennial census is
32 conducted. A disannexation order that would otherwise take effect
33 during the year preceding a year in which a federal decennial census is
34 conducted takes effect January 2 of the year in which a federal
35 decennial census is conducted.

36 SECTION 5. IC 36-4-3-22, AS AMENDED BY P.L.3-1997,
37 SECTION 456, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 1998]: Sec. 22. (a) The clerk of the
39 municipality shall:

40 (1) file each annexation ordinance against which a remonstrance
41 or appeal has not been filed during the period permitted under this
42 chapter or the certified copy of a judgment ordering an annexation

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- 1 to take place with:
- 2 (A) the county auditor of each county in which the annexed
- 3 territory is located; **and**
- 4 (B) the circuit court clerk, **and or** if a board of registration
- 5 exists, the board of each county in which the annexed territory
- 6 is located; and
- 7 ~~(C) the state certifying official designated under IC 3-6-4.2-11;~~
- 8 **and**
- 9 (2) record each annexation ordinance adopted under this chapter
- 10 in the office of the county recorder of each county in which the
- 11 annexed territory is located.
- 12 (b) The copy must be filed and recorded no later than ninety (90)
- 13 days after:
- 14 (1) the expiration of the period permitted for a remonstrance or
- 15 appeal; or
- 16 (2) the delivery of a certified order under section 15 of this
- 17 chapter.
- 18 (c) Failure to record the annexation ordinance as provided in
- 19 subsection (a)(2) does not invalidate the ordinance.
- 20 (d) The county auditor shall forward a copy of any annexation
- 21 ordinance filed under this section to the following:
- 22 (1) The county highway department.
- 23 (2) The county surveyor.
- 24 (3) Each plan commission, if any, that lost or gained jurisdiction
- 25 over the annexed territory.
- 26 (4) ~~Any state agency that has requested copies of annexations~~
- 27 ~~filed with the county auditor under this section. The township~~
- 28 ~~trustee of each township that lost or gained jurisdiction over~~
- 29 ~~the annexed territory.~~
- 30 **(5) The office of the secretary of state.**
- 31 (e) The county auditor may require the clerk of the municipality to
- 32 furnish an adequate number of copies of the annexation ordinance or
- 33 may charge the clerk a fee for photoreproduction of the ordinance. **The**
- 34 **county auditor shall notify the office of the secretary of state of the**
- 35 **date that the annexation ordinance is effective under this chapter.**
- 36 (f) The county auditor shall, upon determining that an annexation
- 37 ordinance has become effective under this chapter, indicate the
- 38 annexation upon the property taxation records maintained in the office
- 39 of the auditor.
- 40 SECTION 6. [EFFECTIVE JULY 1, 1998]: **(a) Notwithstanding**
- 41 **IC 36-4-3-22 as amended by this act, the requirements of**
- 42 **IC 36-4-3-22(a) are satisfied if the annexation is entered by the**

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1 county auditor on the property tax records as having become
2 effective as set forth in IC 36-4-3-22(f) on or after July 1, 1997, and
3 before July 1, 1998.

4 (b) Notwithstanding IC 36-4-3-19 as amended by this act, the
5 requirements of IC 36-4-3-19(d) are satisfied if the disannexation
6 order is filed with the circuit court clerk under IC 36-4-3-19(d) on
7 or after July 1, 1997, and before July 1, 1998.

8 SECTION 7. [EFFECTIVE UPON PASSAGE]: (a) As used in this
9 SECTION, "commission" refers to the Indiana advisory
10 commission on intergovernmental relations established under
11 IC 4-23-24.2-4.

12 (b) The commission shall study the issue of updating and
13 revising the statutes concerning municipal annexation of territory.
14 The commission's study may not include the annexation statutes
15 located at IC 36-3-2.

16 (c) The commission shall prepare and submit a written report
17 of the commission's findings to the legislative council not later than
18 December 1, 1998.

19 (d) This SECTION expires January 1, 1999.

20 SECTION 8. [EFFECTIVE UPON PASSAGE]: (a) This SECTION
21 applies to an annexation under:

- 22 (1) IC 36-4-3-3; or
23 (2) IC 36-4-3-4(a)(1).

24 (b) This SECTION does not apply to an annexation under
25 IC 36-4-3-5.

26 (c) If a municipality adopts an annexation ordinance:

- 27 (1) after the effective date of this act; and
28 (2) before July 1, 1999;

29 and a remonstrance is filed that the court determines is sufficient
30 under IC 36-4-3-11, the annexation ordinance is void.

31 (d) Notwithstanding IC 36-4-3-15, if a municipality's annexation
32 ordinance is voided under this SECTION, a municipality may
33 attempt to annex the territory on or after July 1, 1999.

34 (e) This SECTION expires July 1, 2001.

35 SECTION 9. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill 242, 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 5, after line 27, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "commission" refers to the Indiana advisory commission on intergovernmental relations established under IC 4-23-24.2-4.**

(b) The commission shall study the issue of updating and revising the statutes concerning municipal annexation of territory. The commission's study may not include the annexation statutes located at IC 36-3-2.

(c) The commission shall prepare and submit a written report of the commission's findings to the legislative council not later than December 1, 1998.

(d) This SECTION expires January 1, 1999.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) **This SECTION applies to an annexation under:**

- (1) IC 36-4-3-3; or**
- (2) IC 36-4-3-4(a)(1).**

(b) This SECTION does not apply to an annexation under IC 36-4-3-5.

(c) If a municipality adopts an annexation ordinance:

- (1) after the effective date of this act; and**
- (2) before July 1, 1999;**

and a remonstrance is filed that the court determines is sufficient under IC 36-4-3-11, the annexation ordinance is void.

(d) Notwithstanding IC 36-4-3-15, if a municipality's annexation ordinance is voided under this SECTION, a municipality may attempt to annex the territory on or after July 1, 1999.

(e) This SECTION expires July 1, 2001.

SECTION 8. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 242 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 1.

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SENATE MOTION

Mr. President: I move that Senate Bill 242 be amended to read as follows:

Page 2, line 5, strike "upon the filing required by" and insert "**when the requirements of**".

Page 2, line 6, delete "22(d)(4)" and insert "**22(d)(5)**".

Page 2, line 6, after "chapter" insert "**have been satisfied**".

Page 2, line 20, strike "upon the filing required by" and insert "**when the requirements of**".

Page 2, line 20, delete "22(d)(4)" and insert "**22(d)(5)**".

Page 2, line 21, after "chapter" insert "**have been satisfied**".

Page 2, between lines 40 and 41, begin a new paragraph and insert:
"SECTION 2. IC 36-4-3-15, AS AMENDED BY P.L.2-1997, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

(1) record the judgment in the clerk's ordinance record; and

(2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory during the two (2) years after the later of:

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

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

(c) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the ~~clerk of the municipality complies with the filing requirement requirements~~ of section 22(a) **and 22(d)(5)** of this chapter **are satisfied**."

Re-number all SECTIONS consecutively.

(Reference is to Senate Bill 242 as printed January 30, 1998.)

GARD

SENATE MOTION

Mr. President: I move that Senate Bill 242 be amended to read as follows:

Page 5, line 23, after "IC 36-4-3-22(f)" insert "**on or after July 1, 1997, and**".

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Page 5, line 26, after "IC 36-4-3-19(d)" insert "**on or after July 1, 1997, and**".

(Reference is to Senate Bill 242 as printed January 30, 1998.)

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