



March 30, 1999

**ENGROSSED
HOUSE BILL No. 1606**

DIGEST OF HB 1606 (Updated March 24, 1999 4:02 pm - DI 94)

Citations Affected: IC 36-7.

Synopsis: Municipal planning jurisdiction. Requires a municipality to: (1) provide municipal services to a contiguous unincorporated area; or (2) obtain the consent of the county legislative body; before exercising planning jurisdiction in the contiguous unincorporated area. Allows the complete use and alienation of mineral resources or forests by the owner or alienee of the mineral resources or forest in an area under the jurisdiction of an area plan commission.

Effective: Upon passage; July 1, 1999.

Cherry, Mellinger, Cook

(SENATE SPONSORS — FORD, LEWIS, GARD, WOLF)

January 21, 1999, read first time and referred to Committee on Local Government.
February 24, 1999, amended, reported — Do Pass.
March 1, 1999, read second time, ordered engrossed. Engrossed.
March 3, 1999, read third time, passed. Yeas 85, nays 11.

SENATE ACTION

March 8, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.
March 29, 1999, amended, reported favorably — Do Pass.

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EH 1606—LS 7598/DI 47+



March 30, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1606

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 36-7-4-205 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 205. (a) ADVISORY.
3 A municipal plan commission shall adopt a comprehensive plan, as
4 provided for under the 500 series of the advisory planning law, for the
5 development of the municipality and, **for comprehensive plans**
6 **adopted after July 1, 1999, if the municipality:**
7 (1) **provides municipal services to the contiguous**
8 **unincorporated area; or**
9 (2) **obtains the approval of the county legislative body of the**
10 **county;**
11 **the municipality may provide in the comprehensive plan for the**
12 **development** of the contiguous unincorporated area, designated by the
13 commission, that is outside the corporate boundaries of the
14 municipality, and that, in the judgment of the commission, bears
15 reasonable relation to the development of the municipality.
16 (b) ADVISORY. Except as limited by the boundaries of

EH 1606—LS 7598/DI 47+



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1 unincorporated areas subject to the jurisdiction of other municipal plan
2 commissions, an area designated under this section may include any
3 part of the contiguous unincorporated area within two (2) miles from
4 the corporate boundaries of the municipality. If, however, the corporate
5 boundaries of the municipality or the boundaries of that contiguous
6 unincorporated area include any part of the public waters or shoreline
7 of a lake (which lies wholly within Indiana), the designated area may
8 also include:

- 9 (1) any part of those public waters and shoreline of the lake; and
10 (2) any land area within two thousand five hundred (2,500) feet
11 from that shoreline.

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

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

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

- 41 (1) not less than fifty (50) property owners residing in the area
42 involved in the petition;



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- 1 (2) the county plan commission; or
 2 (3) the municipal plan commission.

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

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

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

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

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

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

40 (h) ADVISORY) AREA. Whenever a new town is incorporated in
 41 a county having a county plan commission or an area plan commission,
 42 that plan commission and its board of zoning appeals shall continue to

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1 exercise territorial jurisdiction within the town until the effective date
2 of a town ordinance:

3 (1) establishing an advisory plan commission under section
4 202(a) of this chapter; or

5 (2) adopting the area planning law under section 202(b) or 204 of
6 this chapter.

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

10 SECTION 2. IC 36-7-4-1103 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1103. (a) This
12 section does not apply to a plan commission exercising jurisdiction in
13 a county having a population of more than nineteen thousand three
14 hundred (19,300) but less than nineteen thousand five hundred
15 (19,500).

16 (b) ~~ADVISORY~~: **ADVISORY—AREA** For purposes of this
17 section, urban areas include all lands and lots within the corporate
18 boundaries of a municipality, any other lands or lots used for
19 residential purposes where there are at least eight (8) residences within
20 any quarter mile square area, and other lands or lots that have been or
21 are planned for residential areas contiguous to the municipality.

22 (c) ~~ADVISORY~~: **ADVISORY—AREA** The advisory planning law
23 **and area planning law** does not authorize an ordinance **or action of**
24 **an area planning department or commission** that would prevent,
25 outside of urban areas, the complete use and alienation of any mineral
26 resources or forests by the owner or alienee of them.

27 SECTION 3. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1606, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1606 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1606, 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 4, after line 8, begin a new paragraph and insert:

"SECTION 2. IC 36-7-4-1103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1103. (a) This section does not apply to a plan commission exercising jurisdiction in a county having a population of more than nineteen thousand three hundred (19,300) but less than nineteen thousand five hundred (19,500).

(b) ~~ADVISORY~~: **ADVISORY—AREA** For purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

(c) ~~ADVISORY~~: **ADVISORY—AREA** The advisory planning law **and area planning law** does not authorize an ordinance **or action of an area planning department or commission** that would prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee of them.

SECTION 3. **An emergency is declared for this act.**"

and when so amended that said bill do pass.

(Reference is to HB 1606 as printed February 25, 1999.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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