



Reprinted
April 9, 1999

ENGROSSED HOUSE BILL No. 1608

DIGEST OF HB 1608 (Updated April 8, 1999 3:49 pm - DI 87)

Citations Affected: IC 36-4.

Synopsis: Annexation provisions. Provides that a municipality shall hold a public hearing on an annexation not earlier than 60 days after the date the annexation ordinance is introduced. Provides that a municipality may adopt an annexation ordinance not earlier than 30 or not later than 60 days after the public hearing on the annexation. Provides that with regard to certain annexations, written notice of the annexation must be sent at least 60 days before the date of the public hearing by certified mail to the landowners in the territory proposed to be annexed. Specifies the information that must be included in the written notice sent to landowners in the area proposed to be annexed.
(Continued next page)

Effective: July 1, 1999.

Bailey, Klinker, Goeglein, Scholer
(SENATE SPONSOR — MERRITT)

January 21, 1999, read first time and referred to Committee on Local Government.
February 10, 1999, amended, reported — Do Pass.
February 15, 1999, read second time, amended, ordered engrossed.
February 16, 1999, engrossed. Read third time, passed. Yeas 91, nays 4.
SENATE ACTION
February 22, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.
April 5, 1999, amended, reported favorably — Do Pass.
April 8, 1999, read second time, amended, ordered engrossed.

EH 1608—LS 8049/DI 87+



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Requires notice of the public hearing to be published at least 60 days before the hearing. Provides that for municipalities other than cities in St. Joseph County, a remonstrance petition must contain the signatures of at least 65% of the owners of land in the annexed territory or the owners of more than 75% of the assessed valuation of land in the annexed territory. (Current law provides that a remonstrance petition must contain the signatures of a majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory.) Provides that a remonstrance petition filed in an annexation by a city in St. Joseph County must contain the signatures of the majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory. Extends the period for filing a remonstrance from 60 days to 90 days. Requires a court to order an annexation not to take place if certain requirements are met. (Under current law, the court may order an annexation not to take place only if these requirements are met in an annexation by a city in St. Joseph County.) Specifies that a municipality must adopt a written fiscal plan for certain annexations. Specifies additional information that must be included in the fiscal plan. Removes a requirement currently in the law that the fiscal plan include the plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation. Provides that all municipalities must provide noncapital and capital services to an annexed area that are equivalent to services provided within the municipality regardless of similar topography, patterns of land use, and population density. (Current law requires municipalities other than cities in St. Joseph County to provide services to the annexed area that are equivalent to those services provided within the municipality that have similar topography, patterns of land use, and population density.) Provides that the secretary of state and township trustee must receive annexation and disannexation filings.

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Reprinted
April 9, 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. 1608

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 36-4-3-2.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.1. (a) A municipality
3 may adopt an ordinance under this chapter only after the legislative
4 body has held a public hearing concerning the proposed annexation.
5 **The municipality shall hold the public hearing not earlier than**
6 **sixty (60) days after the date the ordinance is introduced.** All
7 interested parties must have the opportunity to testify as to the
8 proposed annexation.
9 (b) Notice of the hearing shall be:
10 (1) published in accordance with IC 5-3-1, **except that the notice**
11 **must be published at least sixty (60) days before the hearing;**
12 **and**
13 (2) **mailed as required by section 2.2 of this chapter, if section**
14 **2.2 of this chapter applies to the annexation.**
15 (c) **A municipality may adopt an ordinance under this chapter**
16 **not earlier than thirty (30) days or not later than sixty (60) days**
17 **after the legislative body has held the public hearing under**

EH 1608—LS 8049/DI 87+



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1 subsection (a).

2 SECTION 2. IC 36-4-3-2.2 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 1999]: Sec. 2.2. (a) This section does not apply to an annexation
5 under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

6 (b) Before a municipality may annex territory, the municipality
7 shall provide written notice of the hearing required by section 2.1
8 of this chapter. The notice must be sent by certified mail at least
9 sixty (60) days before the date of the hearing to each owner of real
10 property, as shown on the county auditor's current tax list, whose
11 real property is located within the territory proposed to be
12 annexed.

13 (c) The notice required by this section must include the
14 following:

15 (1) A legal description of the real property proposed to be
16 annexed.

17 (2) The date, time, location, and subject of the hearing.

18 (3) A map of the current municipal boundaries and a map of
19 the proposed municipal boundaries.

20 (4) Current zoning classifications for the area proposed to be
21 annexed and any proposed zoning changes for the area
22 proposed to be annexed.

23 (5) A detailed summary of the fiscal plan described in section
24 13 of this chapter.

25 (6) The location where the public may inspect and copy the
26 fiscal plan.

27 (7) A statement that the municipality will provide a copy of
28 the fiscal plan immediately to any landowner in the annexed
29 territory who requests a copy.

30 (8) The name and telephone number of a representative of the
31 municipality who may be contacted for further information.

32 (d) If the municipality complies with this section, the notice is
33 not invalidated if the owner does not receive the notice.

34 SECTION 3. IC 36-4-3-3.1 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 1999]: Sec. 3.1. (a) This section does not apply to an annexation
37 under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

38 (b) A municipality shall develop a written fiscal plan and
39 establish a definite policy by resolution of the legislative body that
40 meets the requirements of section 13 of this chapter.

41 (c) Except as provided in subsection (d), the municipality shall
42 establish the written fiscal plan before mailing the notification to

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1 **landowners in the territory proposed to be annexed under section**
 2 **2.2 of this chapter.**

3 **(d) In an annexation under section 5 of this chapter, the**
 4 **municipality shall establish the written fiscal plan before adopting**
 5 **the annexation ordinance.**

6 SECTION 4. IC 36-4-3-11 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Whenever
 8 territory is annexed by a municipality under this chapter, the
 9 annexation may be appealed by filing with the circuit or superior court
 10 of a county in which the annexed territory is located a written
 11 remonstrance signed by: **as follows:**

12 **(1) If the annexation is by a city in a county with a population**
 13 **or more than two hundred thousand (200,000) but less than**
 14 **three hundred thousand (300,000) the remonstrance must be**
 15 **signed by:**

16 ~~(1)~~ **(A)** a majority of the owners of land in the annexed
 17 territory; or

18 ~~(2)~~ **(B)** the owners of more than seventy-five percent (75%) in
 19 assessed valuation of the land in the annexed territory.

20 **(2) If the annexation is by a municipality in a county that is**
 21 **not described in subdivision (1), the remonstrance must be**
 22 **signed by:**

23 **(A) at least sixty-five percent (65%) of the owners of land**
 24 **in the annexed territory; or**

25 **(B) the owners of more than seventy-five percent (75%) in**
 26 **assessed valuation of the land in the annexed territory.**

27 The remonstrance must be filed within ~~sixty (60)~~ **ninety (90)** days after
 28 the publication of the annexation ordinance under section 7 of this
 29 chapter, must be accompanied by a copy of that ordinance, and must
 30 state the reason why the annexation should not take place.

31 (b) On receipt of the remonstrance, the court shall determine
 32 whether the remonstrance has the necessary signatures. In determining
 33 the total number of landowners of the annexed territory and whether
 34 signers of the remonstrance are landowners, the names appearing on
 35 the tax duplicate for that territory constitute prima facie evidence of
 36 ownership. Only one (1) person having an interest in each single
 37 property, as evidenced by the tax duplicate, is considered a landowner
 38 for purposes of this section.

39 (c) If the court determines that the remonstrance is sufficient, it shall
 40 fix a time, within sixty (60) days of its determination, for a hearing on
 41 the remonstrance. Notice of the proceedings, in the form of a summons,
 42 shall be served on the annexing municipality. The municipality is the



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1 defendant in the cause and shall appear and answer.

2 SECTION 5. IC 36-4-3-13 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Except as
4 provided in ~~subsection~~ **subsections (e) and (f)**, at the hearing under
5 section 12 of this chapter, the court shall order a proposed annexation
6 to take place if the following requirements are 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 to
15 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
18 industrial uses.

19 (c) The requirements of this subsection are met if the evidence
20 establishes the following:

21 (1) That the territory sought to be annexed is contiguous to the
22 municipality as required by section 1.5 of this chapter, except that
23 at least one-fourth (1/4), instead of one-eighth (1/8), of the
24 aggregate external boundaries of the territory sought to be
25 annexed must coincide with the boundaries of the municipality.

26 (2) That the territory sought to be annexed is needed and can be
27 used by the municipality for its development in the reasonably
28 near future.

29 (d) The requirements of this subsection are met if the evidence
30 establishes that the municipality has developed a written fiscal plan and
31 has established a definite policy, by resolution of the legislative body
32 **described in section 3.1 of this chapter. as of the date of passage of**
33 ~~the annexation ordinance.~~ The resolution must show the following:

34 (1) The cost estimates of planned services to be furnished to the
35 territory to be annexed. **The plan must present itemized**
36 **estimated costs for each municipal department or agency.**

37 (2) The method or methods of financing the planned services. **The**
38 **plan must explain how specific and detailed expenses will be**
39 **funded and must indicate the taxes, grants, and other funding**
40 **to be used.**

41 (3) The plan for the organization and extension of services. **The**
42 **plan must detail the specific services that will be provided and**

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- 1 **the dates the services will begin.**
- 2 (4) That planned services of a noncapital nature, including police
- 3 protection, fire protection, street and road maintenance, and other
- 4 noncapital services normally provided within the corporate
- 5 boundaries, will be provided to the annexed territory within one
- 6 (1) year after the effective date of annexation and that they will be
- 7 provided in a manner equivalent in standard and scope to those
- 8 noncapital services provided to areas within the corporate
- 9 boundaries ~~that have~~ **regardless of** similar topography, patterns
- 10 of land use, and population density. ~~However, in a county having~~
- 11 a population of more than two hundred thousand (200,000) but
- 12 less than three hundred thousand (300,000); the resolution of a
- 13 city must show that these services will be provided in a manner
- 14 equivalent in standard and scope to those noncapital services
- 15 provided to areas within the corporate boundaries; regardless of
- 16 similar topography, patterns of land use, or population density.
- 17 (5) That services of a capital improvement nature, including street
- 18 construction, street lighting, sewer facilities, water facilities, and
- 19 stormwater drainage facilities, will be provided to the annexed
- 20 territory within three (3) years after the effective date of the
- 21 annexation in the same manner as those services are provided to
- 22 areas within the corporate boundaries, ~~that have~~ **regardless of**
- 23 similar topography, patterns of land use, and population density,
- 24 and in a manner consistent with federal, state, and local laws,
- 25 procedures, and planning criteria. However, in a county having a
- 26 population of more than two hundred thousand (200,000) but less
- 27 than three hundred thousand (300,000), the resolution of a city
- 28 must show that these services will be provided to the annexed
- 29 territory within four (4) years after the effective date of the
- 30 annexation and in the same manner as those services are provided
- 31 to areas within the corporate boundaries regardless of similar
- 32 topography, patterns of land use, or population density.
- 33 (6) ~~The plan for hiring the employees of other governmental~~
- 34 ~~entities whose jobs will be eliminated by the proposed~~
- 35 ~~annexation; although the municipality is not required to hire any~~
- 36 ~~employees.~~
- 37 (e) This subsection ~~applies only~~ **does not apply** to cities located in
- 38 a county having a population of more than two hundred thousand
- 39 (200,000) but less than three hundred thousand (300,000). ~~However~~
- 40 ~~This subsection does not apply if on April 1, 1993, the entire boundary~~
- 41 ~~of the territory that is proposed to be annexed was contiguous to~~
- 42 ~~territory that was within the boundaries of one (1) or more~~

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1 ~~municipalities~~. At the hearing under section 12 of this chapter, the
2 court shall do the following:

3 (1) Consider evidence on the conditions listed in subdivision (2).

4 (2) Order a proposed annexation not to take place if the court
5 finds that all of the following conditions exist in the territory
6 proposed to be annexed:

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

9 (i) Police and fire protection.

10 (ii) Street and road maintenance.

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

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

14 (i) ~~A majority~~ **At least sixty-five percent (65%)** of the
15 owners of land in the territory proposed to be annexed.

16 (ii) The owners of more than seventy-five percent (75%) in
17 assessed valuation of the land in the territory proposed to be
18 annexed.

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

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

29 (1) Consider evidence on the conditions listed in subdivision
30 (2).

31 (2) Order a proposed annexation not to take place if the court
32 finds that all of the following conditions exist in the territory
33 proposed to be annexed:

34 (A) The following services are adequately furnished by a
35 provider other than the municipality seeking the
36 annexation:

37 (i) Police and fire protection.

38 (ii) Street and road maintenance.

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

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

42 (i) A majority of the owners of land in the territory

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1 **proposed to be annexed.**

2 **(ii) The owners of more than seventy-five percent (75%)**
 3 **in assessed valuation of the land in the territory**
 4 **proposed to be annexed.**

5 **Evidence of opposition may be expressed by any owner of**
 6 **land in the territory proposed to be annexed.**

7 (f) (g) The federal census data established by IC 1-1-4-5(17) shall
 8 be used as evidence of resident population density for purposes of
 9 subsection (b)(2)(A), but this evidence may be rebutted by other
 10 evidence of population density.

11 SECTION 6. IC 36-4-3-19 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) If disannexation
 13 is ordered under this chapter by the works board of a municipality and
 14 no appeal is taken, the clerk of the municipality shall, without
 15 compensation and not later than ten (10) days after the order is made,
 16 make and certify a complete transcript of the disannexation
 17 proceedings to the auditor of each county in which the disannexed lots
 18 or lands lie ~~and to the state certifying official designated under~~
 19 ~~IC 3-6-4.2-11~~ **and to the office of the secretary of state.** The county
 20 auditor shall list those lots or lands appropriately for taxation. The
 21 proceedings of the works board shall not be certified to the county
 22 auditor **or to the office of the secretary of state** if an appeal to the
 23 circuit court has been taken.

24 (b) In all proceedings begun in or appealed to the circuit court, if
 25 vacation or disannexation is ordered, the clerk of the court shall
 26 immediately after the judgment of the court, or after a decision on
 27 appeal to the supreme court or court of appeals if the judgment on
 28 appeal is not reversed, certify the judgment of the circuit court, as
 29 affirmed or modified, to:

30 (1) the auditor of each county in which the lands or lots affected
 31 lie, on receipt of one dollar (\$1) for the making and certifying of
 32 the transcript from the petitioners for the disannexation;

33 (2) ~~the state certifying official designated under IC 3-6-4.2-11~~
 34 **office of the secretary of state;** and

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

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

40 (1) The county highway department.

41 (2) The county surveyor.

42 (3) Each plan commission, if any, that lost or gained jurisdiction

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1 over the disannexed territory.

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

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

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

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

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

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

18 **(e) The clerk of the municipality shall notify the office of the**
 19 **secretary of state of the date a disannexation is effective under this**
 20 **chapter.**

21 ~~(e)~~ **(f)** A disannexation order under this chapter may not take effect
 22 during the year preceding a year in which a federal decennial census is
 23 conducted. A disannexation order that would otherwise take effect
 24 during the year preceding a year in which a federal decennial census is
 25 conducted takes effect January 2 of the year in which a federal
 26 decennial census is conducted.

27 **SECTION 7. IC 36-4-3-22 IS AMENDED TO READ AS**
 28 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The clerk of the**
 29 **municipality shall do the following:**

30 (1) File each annexation ordinance against which a remonstrance
 31 or **an** appeal has not been filed during the period permitted under
 32 this chapter or the certified copy of a judgment ordering an
 33 annexation to take place with:

34 (A) the county auditor of each county in which the annexed
 35 territory is located;

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

39 (C) the state certifying official designated under IC 3-6-4.2-11;
 40 and

41 (2) Record each annexation ordinance adopted under this chapter
 42 in the office of the county recorder of each county in which the

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- 1 annexed territory is located.
- 2 (b)The copy must be filed and recorded no later than ninety (90)
- 3 days after:
- 4 (1) the expiration of the period permitted for a remonstrance or
- 5 appeal; or
- 6 (2) the delivery of a certified order under section 15 of this
- 7 chapter.
- 8 (c) Failure to record the annexation ordinance as provided in
- 9 subsection (a)(2) does not invalidate the ordinance.
- 10 (d) The county auditor shall forward a copy of any annexation
- 11 ordinance filed under this section to the following:
- 12 (1) The county highway department.
- 13 (2) The county surveyor.
- 14 (3) Each plan commission, if any, that lost or gained jurisdiction
- 15 over the annexed territory.
- 16 (4) ~~Any state agency that has requested copies of annexations~~
- 17 ~~filed with the county auditor under this section.~~ **The township**
- 18 **trustee of each township that lost or gained jurisdiction over**
- 19 **the annexed territory.**
- 20 **(5) The office of the secretary of state.**
- 21 (e) The county auditor may require the clerk of the municipality to
- 22 furnish an adequate number of copies of the annexation ordinance or
- 23 may charge the clerk a fee for photoreproduction of the ordinance. **The**
- 24 **county auditor shall notify the office of the secretary of state of the**
- 25 **date that the annexation ordinance is effective under this chapter.**
- 26 (f) The county auditor shall, upon determining that an annexation
- 27 ordinance has become effective under this chapter, indicate the
- 28 annexation upon the property taxation records maintained in the office
- 29 of the auditor.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1608, 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:

Page 15, line 19, delete "must" and insert "**may**".

and when so amended that said bill do pass.

(Reference is to HB 1608 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1608 be amended to read as follows:

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.1. (a) This section applies to municipalities:

(1) having a population of:

(A) more than ten thousand (10,000) but less than fifteen thousand (15,000); and

(B) more than four thousand (4,000) but less than four thousand three hundred (4,300);

located in a county having a population of more than seventy-five thousand (75,000) but less than seventy-eight thousand (78,000);

(2) having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850) located in a county having a population of more than one hundred seven thousand (107,000) but less than one hundred eight thousand (108,000); and

(3) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subdivision (a)(1), has its entire area within the township within which the municipality is primarily located; and

(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a municipality having a population of:

(1) more than six thousand (6,000) but less than six thousand five hundred (6,500); or

(2) more than eight thousand seven hundred (8,700) but less than eight thousand nine hundred (8,900);

in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that is classified for zoning purposes as agriculture and remains exempt from the property tax liability while the

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property's zoning classification remains agriculture.

(e) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory."

Renumber all SECTIONS consecutively.

(Reference is to HB 1608 as reprinted February 11, 1999.)

WHETSTONE

HOUSE MOTION

Mr. Speaker: I move that House Bill 1608 be amended to read as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert: "SECTION 4. IC 36-4-3-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 2.2. Before the municipality adopts an annexation ordinance, the municipality shall develop a written fiscal plan and establish a definite policy, by resolution of the legislative body, that shows the following:**

- (1) **The cost estimates of planned services to be furnished to the territory to be annexed.**
- (2) **The method or methods of financing the planned services.**
- (3) **The plan for the organization and extension of services.**
- (4) **That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.**
- (5) **That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater facilities, will be provided to the annexed territory within four (4) years after the effective date of the annexation, in the same manner as those services are provided to areas within the corporate boundaries,**

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regardless of similar topography, patterns of land use, or population density.

(6) The plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation, although the municipality is not required to hire any employees.

Renumber all SECTIONS consecutively.

(Reference is to HB1608 as printed February 11, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1608, 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 1, delete lines 1 through 10.

Page 1, line 13, delete "section 3, 4, 4.1, or 5 of".

Page 1, line 16, delete "at least fifteen (15)" and insert "**not earlier than sixty (60)**".

Page 2, line 3, after "be" insert ":".

Page 2, line 3, before "published" begin a new line block indented and insert "**(1)**".

Page 2, line 3, delete "one (1) time".

Page 2, line 4, delete "." and insert ", **except that the notice must be published at least sixty (60) days before the hearing; and**

(2) mailed as required by section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.".

Page 2, line 5, delete "If the ordinance is introduced under section 3 or 4 of this" and insert "**A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (a).**".

Page 2, delete lines 6 through 42, begin a new paragraph, and insert: "SECTION 2. IC 36-4-3-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.**

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required by section 2.1 of this chapter. The notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) The notice required by this section must include the following:

(1) A legal description of the real property proposed to be annexed.

(2) The date, time, location, and subject of the hearing.

(3) A map of the current municipal boundaries and a map of the proposed municipal boundaries.



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(4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.

(5) A detailed summary of the fiscal plan described in section 13 of this chapter.

(6) The location where the public may inspect and copy the fiscal plan.

(7) A statement that the municipality will provide a copy of the fiscal plan immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(d) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

SECTION 3. IC 36-4-3-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.**

(b) A municipality shall develop a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements of section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 of this chapter, the municipality shall establish the written fiscal plan before adopting the annexation ordinance.

SECTION 4. IC 36-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11. (a) Whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: as follows:**

(1) If the annexation is by a city in a county with a population or more than two hundred thousand (200,000) but less than three hundred thousand (300,000) the remonstrance must be signed by:

(1) (A) a majority of the owners of land in the annexed territory; or

(2) (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

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(2) If the annexation is by a municipality in a county that is not described in subdivision (1), the remonstrance must be signed by:

(A) at least sixty-five percent (65%) of the owners of land in the annexed territory; or

(B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ~~sixty (60)~~ **ninety (90)** days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

SECTION 5. IC 36-4-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence

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establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed a written fiscal plan and has established a definite policy, by resolution of the legislative body **described in section 3.1 of this chapter. as of the date of passage of the annexation ordinance.** The resolution must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. **The plan must present itemized estimated costs for each municipal department or agency.**

(2) The method or methods of financing the planned services. **The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.**

(3) The plan for the organization and extension of services. **The plan must detail the specific services that will be provided and the dates the services will begin.**

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries ~~that have~~ **regardless of** similar topography, patterns of land use, and population density. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); the resolution of a city must show that these services will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, or population density.~~

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed

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territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, ~~that have~~ **regardless of** similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the resolution of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.

~~(6) The plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation, although the municipality is not required to hire any employees.~~

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

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:
 - (A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:
 - (i) Police and fire protection.
 - (ii) Street and road maintenance.
 - (B) The annexation will have a significant financial impact on the residents or owners of land.
 - (C) ~~One (1)~~ **of the following opposes the annexation: The following oppose the annexation:**
 - ~~(i) A majority of the owners of land in the territory proposed to be annexed.~~
 - ~~(ii) The owners of more than seventy-five percent (75%) in~~



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assessed valuation of the land in the territory proposed to be annexed.

(i) If the annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the number of owners required to sign a remonstrance petition under section 11(a)(1) of this chapter in the territory proposed to be annexed.

(ii) If the annexation is by a municipality in a county not described in item (i), the number of owners required to sign a remonstrance petition under section 11(a)(2) of this chapter in the territory proposed to be annexed.

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

(f) The federal census data established by IC 1-1-4-5(17) shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 6. IC 36-4-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie ~~and to the state certifying official designated under IC 3-6-4.2-11~~ **and to the office of the secretary of state.** The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor **or to the office of the secretary of state** if an appeal to the circuit court has been taken.

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

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



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

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

- (1) The county highway department.
- (2) The county surveyor.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.
- (4) ~~Any state agency that has requested copies of disannexations filed with the county auditor under this section.~~ **The township trustee of each township that lost or gained jurisdiction over the disannexed territory.**

(5) The office of the secretary of state.

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

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

- (1) the county auditor of each county in which the annexed territory is located; and**
- (2) the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.**

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

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

SECTION 7. IC 36-4-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The clerk of the municipality shall **do the following:**

- (1) File each annexation ordinance against which a remonstrance or **an** appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:
 - (A) the county auditor of each county in which the annexed

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territory is located;

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

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

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

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

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

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

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

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

(1) The county highway department.

(2) The county surveyor.

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

(4) ~~Any state agency that has requested copies of annexations filed with the county auditor under this section. The township trustee of each township that lost or gained jurisdiction over the annexed territory.~~

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

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. **The county auditor shall notify the office of the secretary of state of the date that the annexation ordinance is effective under this chapter.**

(f) The county auditor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor."

Delete pages 3 through 20.

Renumber all SECTIONS consecutively.

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and when so amended that said bill do pass.

(Reference is to HB 1608 as reprinted February 16, 1999.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1608 be amended to read as follows:

Page 4, line 4, strike "subsection" and insert "**subsections**".

Page 4, line 4, after "(e)" insert "**and (f)**".

Page 5, line 37, reset in roman, "This subsection".

Page 5, line 37, after "applies only" insert "**does not apply**".

Page 5, line 37, reset in roman "to cities located in a county having".

Page 5, reset in roman line 38.

Page 5, line 39, reset in roman "than three hundred thousand (300,000)".

Page 5, line 39, strike "This subsection does".

Page 5, line 40, strike "not apply".

Page 5, line 40, delete "to an annexation by a city located in a county having a".

Page 5, delete line 41.

Page 5, line 42, delete "than three hundred thousand (300,000)".

Page 5, line 42, strike "if on April 1, 1993, the entire".

Page 6, strike lines 1 through 2.

Page 6, line 3, strike "municipalities".

Page 6, line 15, reset in roman "One (1) of the following opposes the annexation:".

Page 6, line 15, delete "The".

Page 6, delete line 16.

Page 6, line 17, reset in roman "(i)".

Page 6, line 17, after "majority" insert "**At least sixty-five percent (65%)**".

Page 6, line 17, reset in roman "of the owners of land in the territory proposed".

Page 6, reset in roman lines 18 through 21.

Page 6, delete lines 22 through 31.

Page 6, between lines 33 and 34, begin a new paragraph and insert:

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

- (1) Consider evidence on the conditions listed in subdivision**
- (2).**



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(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

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

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

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

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

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

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

Page 6, line 34, strike "(f)" and insert "(g)".

(Reference is to EHB 1608 as printed April 6, 1999.)

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