



April 5, 1999

**ENGROSSED
SENATE BILL No. 167**

DIGEST OF SB 167 (Updated March 30, 1999 2:18 pm - DI 94)

Citations Affected: IC 36-4; noncode.

Synopsis: Terms and conditions of annexations. Requires (rather than allows) municipalities to include certain terms and conditions in an annexation ordinance. Requires (rather than allows) municipalities to impound certain property taxes collected from annexed territory. Requires that the impounded taxes must be used to provide additional services not specified in the annexation plan. Provides that a municipality: (1) that adopts an annexation ordinance before July 1, 1999; (2) that proves the establishment of a fiscal plan before July 1, 1999; and (3) whose annexation ordinance is effective after July 1, (Continued next page)

Effective: July 1, 1999.

Long, Gard, Antich

(HOUSE SPONSORS — PELATH, STEVENSON, ALDERMAN, ESPICH)

January 6, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

February 25, 1999, amended, reported favorably — Do Pass.

March 1, 1999, read second time, ordered engrossed.

March 2, 1999, engrossed.

March 3, 1999, read third time, passed. Yeas 30, nays 19.

HOUSE ACTION

March 8, 1999, read first time and referred to Committee on Local Government.

April 5, 1999, reported — Do Pass.

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1999, is not required to amend its ordinance or fiscal plan but is required to: (1) create terms and conditions of the annexation fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory; and (2) with regard to territory that meets certain population and subdivision requirements, impound in a special fund all of the municipal property taxes imposed on the annexed territory for at least three years after the annexation takes effect. Provides that if a municipality attempts unsuccessfully to annex territory, the municipality may not make further attempts to annex the territory for four years. (Current law provides that if a municipality attempts unsuccessfully to annex territory, the municipality may not make further attempts to annex the territory for two years.) Requires a municipality to mail notice of an annexation to the owners of property within the annexed territory not later than 60 days before the public hearing on the annexation. Requires the municipality to publish notice of the public hearing at least 60 days before the date of the hearing. Provides that a municipality may not adopt an annexation ordinance within 30 days after the public hearing on the annexation. Requires a municipality to adopt a fiscal plan before the annexation ordinance is adopted.

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April 5, 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 SENATE BILL No. 167

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 municipality
3 may adopt an ordinance under this chapter ~~only~~ **not earlier than thirty**
4 **(30) days** after the legislative body has held a public hearing
5 concerning the proposed annexation. All interested parties must have
6 the opportunity to testify as to the proposed annexation. Notice of the
7 hearing shall be:

8 (1) published in accordance with IC 5-3-1 **except that the notice**
9 **shall be published at least sixty (60) days before the hearing;**
10 **and**
11 (2) **mailed as set forth in section 2.2 of this chapter.**

12 SECTION 2. IC 36-4-3-2.2 IS ADDED TO THE INDIANA CODE
13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 1999]: **Sec. 2.2. (a) Before a municipality may annex territory,**
15 **the municipality shall provide written notice of the hearing**

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1 required under section 2.1 of this chapter. The notice shall be
 2 mailed at least sixty (60) days before the date of the hearing to each
 3 owner of real property, as shown on the county auditor's current
 4 tax list, whose real property is located within the territory
 5 proposed to be annexed.

6 (b) The notice required by this section must include the
 7 following:

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

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

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

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

16 (5) The fiscal plan described in section 13 of this chapter.

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

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

21 SECTION 3. IC 36-4-3-2.3 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 1999]: **Sec. 2.3. Before a municipality adopts an annexation
 24 ordinance, the municipality shall develop a written fiscal plan as
 25 set forth in section 13(d) of this chapter.**

26 SECTION 4. IC 36-4-3-8 IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 1999]: **Sec. 8. (a) This section does not apply
 28 to an ordinance adopted under section 5 of this chapter.**

29 (b) An ordinance adopted under section 3 or 4 of this chapter ~~may~~
 30 **must** include terms and conditions fairly calculated to make the
 31 annexation equitable to the property owners and residents of the
 32 municipality and the annexed territory. The terms and conditions may
 33 include:

34 (1) postponing the effective date of the annexation;

35 (2) impounding in a special fund all or part of the municipal
 36 property taxes imposed on the annexed territory after the
 37 annexation takes effect, in an amount and for a period, not to
 38 exceed three (3) years, determined by the municipal legislative
 39 body, and using the impounded taxes solely for the extension of
 40 municipal services and benefits and the making of municipal or
 41 public improvements for the benefit of the property owners and
 42 residents of the annexed territory; and



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1 (2) establishing equitable provisions for the future
2 management and improvement of the annexed territory and for
3 the rendering of needed services.

4 **(c) This subsection applies to territory sought to be annexed that**
5 **meets all of the following requirements:**

6 **(1) The resident population density of the territory is at least**
7 **three (3) persons per acre.**

8 **(2) The territory is subdivided or is parceled through separate**
9 **ownerships into lots or parcels such that at least sixty percent**
10 **(60%) of the total number of lots and parcels are not more**
11 **than one (1) acre.**

12 **This subsection does not apply to an ordinance annexing territory**
13 **described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter.**
14 **The ordinance must include terms and conditions impounding in**
15 **a special fund all of the municipal property taxes imposed on the**
16 **annexed territory after the annexation takes effect that are not**
17 **used to meet the basic services described in section 13(d)(4) and**
18 **13(d)(5) of this chapter for a period of at least three (3) years. The**
19 **impounded property taxes must be used to provide additional**
20 **services that were not specified in the plan of annexation.**

21 SECTION 5. IC 36-4-3-15 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The court's
23 judgment under section 12 or 15.5 of this chapter must specify the
24 annexation ordinance on which the remonstrance is based. The clerk of
25 the court shall deliver a certified copy of the judgment to the clerk of
26 the municipality. The clerk of the municipality shall:

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

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

30 (b) If a judgment under section 12 or 15.5 of this chapter is adverse
31 to annexation, the municipality may not make further attempts to annex
32 the territory during the ~~two (2)~~ **four (4)** years after the later of:

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

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

36 (c) If a judgment under section 12 or 15.5 of this chapter orders the
37 annexation to take place, the annexation is effective when the clerk of
38 the municipality complies with the filing requirement of section 22(a)
39 of this chapter.

40 SECTION 6. [EFFECTIVE JULY 1, 1999] (a) **This SECTION**
41 **applies to a municipality that:**

42 **(1) adopts an annexation ordinance under IC 36-4-3-3 or**



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1 **IC 36-4-3-4:**
2 (A) before July 1, 1999; and
3 (B) that becomes effective after July 1, 1999;
4 (2) proves the establishment of a fiscal plan under
5 IC 36-4-3-13 before July 1, 1999; and
6 (3) is subject to IC 36-4-3-8, as amended by this act.
7 (b) Notwithstanding IC 36-4-3-8, as amended by this act, a
8 municipality described in this SECTION is not required to amend
9 its annexation ordinance and its fiscal plan. However, a
10 municipality described in this SECTION shall comply with
11 IC 36-4-3-8, as amended by this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 167, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.1. A municipality may adopt an ordinance under this chapter ~~only~~ **not earlier than thirty (30) days** after the legislative body has held a public hearing concerning the proposed annexation. All interested parties must have the opportunity to testify as to the proposed annexation. Notice of the hearing shall be:

- (1) published in accordance with IC 5-3-1 **except that the notice shall be published at least sixty (60) days before the hearing; and**
- (2) **mailed as set forth in section 2.2 of this chapter.**

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) **Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. The notice shall be mailed 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.**

(b) **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.**
 - (4) **Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.**
 - (5) **The fiscal plan described in section 13 of this chapter.**
 - (6) **The name and telephone number of a representative of the municipality who may be contacted for further information.**
- (c) **If the municipality complies with this section, the notice is**

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not invalidated if the owner does not receive the notice.

SECTION 3. IC 36-4-3-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.3. Before a municipality adopts an annexation ordinance, the municipality shall develop a written fiscal plan as set forth in section 13(d) of this chapter."**

Page 2, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 5. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: 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)~~ **four (4)** 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 of section 22(a) of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 167 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 167, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 6, nays 5.

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