

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 167 be amended to read as follows:

- 1 Page 1, line 2, after "2.1." insert "(a)".
- 2 Page 1, line 3, reset in roman "only".
- 3 Page 1, line 3, delete "not earlier than thirty".
- 4 Page 1, line 4, delete "(30) days".
- 5 Page 1, line 5, after "annexation." insert "**The municipality shall**
- 6 **hold the public hearing not earlier than sixty (60) days after the**
- 7 **date the ordinance is introduced.**".
- 8 Page 1, line 11, after "chapter " delete "." and insert ", **if section 2.2**
- 9 **of this chapter applies to the annexation.**".
- 10 Page 1, between lines 11 and 12, begin a new paragraph and insert:
- 11 "**(b) A municipality may adopt an ordinance under this chapter**
- 12 **not earlier than thirty (30) days or not later than sixty (60) days**
- 13 **after the legislative body has held the public hearing under**
- 14 **subsection (a).**".
- 15 Page 1, line 14, after "(a)" insert "**This section does not apply to an**
- 16 **annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this**
- 17 **chapter.**".
- 18 Page 1, line 14, before "Before" begin a new paragraph and insert:
- 19 "**(b)**".
- 20 Page 2, line 1, delete "shall" and insert "**must**".
- 21 Page 2, line 2, delete "mailed" and insert "**sent by certified mail**".
- 22 Page 2, line 16, delete "The" and insert "**A detailed summary of**
- 23 **the**".
- 24 Page 2, between lines 16 and 17, begin a new line block indented

1 and insert:

2 **"(6) The location where the public may inspect and copy the**
3 **fiscal plan.**

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

7 Page 2, line 17, delete "(6)" and insert "(8)".

8 Page 2, delete lines 21 through 25, begin a new paragraph and
9 insert:

10 "SECTION 3. IC 36-4-3-3.1 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 1999]: **Sec. 3.1. (a) This section does not apply to an annexation**
13 **under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.**

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

17 **(c) Except as provided in subsection (d), the municipality shall**
18 **establish the written fiscal plan before mailing the notification to**
19 **landowners in the territory proposed to be annexed under section**
20 **2.2 of this chapter.**

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

24 Page 3, between lines 20 and 21, begin a new paragraph and insert:

25 "SECTION 5. IC 36-4-3-11 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11. (a) Whenever**
27 **territory is annexed by a municipality under this chapter, the**
28 **annexation may be appealed by filing with the circuit or superior court**
29 **of a county in which the annexed territory is located a written**
30 **remonstrance signed by:**

31 **(1) if the annexation is by a city in a county with a population**
32 **or more than two hundred thousand (200,000) but less than**
33 **three hundred thousand (300,000):**

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

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

38 **(2) if the annexation is by a municipality in a county that is**
39 **not described in subdivision (1):**

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

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

44 The remonstrance must be filed within ~~sixty (60)~~ **ninety (90)** days after
45 the publication of the annexation ordinance under section 7 of this
46 chapter, must be accompanied by a copy of that ordinance, and must

1 state the reason why the annexation should not take place.

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

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

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

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

21 (2) The requirements of subsection (d).

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

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

26 (2) One (1) of the following:

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

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

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

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

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

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

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

- 1 (1) The cost estimates of planned services to be furnished to the
 2 territory to be annexed. **The plan must present itemized**
 3 **estimated costs for each municipal department or agency.**
 4 (2) The method or methods of financing the planned services. **The**
 5 **plan must explain how specific and detailed expenses will be**
 6 **funded and must indicate the taxes, grants, and other funding**
 7 **to be used.**
 8 (3) The plan for the organization and extension of services. **The**
 9 **plan must detail the specific services that will be provided and**
 10 **the dates the services will begin.**
 11 (4) That planned services of a noncapital nature, including police
 12 protection, fire protection, street and road maintenance, and other
 13 noncapital services normally provided within the corporate
 14 boundaries, will be provided to the annexed territory within one
 15 (1) year after the effective date of annexation and that they will be
 16 provided in a manner equivalent in standard and scope to those
 17 noncapital services provided to areas within the corporate
 18 boundaries ~~that have~~ **regardless of** similar topography, patterns
 19 of land use, and population density. ~~However, in a county having~~
 20 ~~a population of more than two hundred thousand (200,000) but~~
 21 ~~less than three hundred thousand (300,000); the resolution of a~~
 22 ~~city must show that these services will be provided in a manner~~
 23 ~~equivalent in standard and scope to those noncapital services~~
 24 ~~provided to areas within the corporate boundaries, regardless of~~
 25 ~~similar topography; patterns of land use; or population density.~~
 26 (5) That services of a capital improvement nature, including street
 27 construction, street lighting, sewer facilities, water facilities, and
 28 stormwater drainage facilities, will be provided to the annexed
 29 territory within three (3) years after the effective date of the
 30 annexation in the same manner as those services are provided to
 31 areas within the corporate boundaries, ~~that have~~ **regardless of**
 32 similar topography, patterns of land use, and population density,
 33 and in a manner consistent with federal, state, and local laws,
 34 procedures, and planning criteria. However, in a county having a
 35 population of more than two hundred thousand (200,000) but less
 36 than three hundred thousand (300,000), the resolution of a city
 37 must show that these services will be provided to the annexed
 38 territory within four (4) years after the effective date of the
 39 annexation and in the same manner as those services are provided
 40 to areas within the corporate boundaries regardless of similar
 41 topography, patterns of land use, or population density.
 42 ~~(6) The plan for hiring the employees of other governmental~~
 43 ~~entities whose jobs will be eliminated by the proposed~~
 44 ~~annexation; although the municipality is not required to hire any~~
 45 ~~employees.~~
 46 **(e) This subsection does not apply to a city located in a county**

1 **having a population of more than two hundred thousand (200,000)**
 2 **but less than three hundred thousand (300,000). At the hearing**
 3 **under section 12 of this chapter, the court shall do the following:**

4 **(1) Consider evidence on the conditions listed in subdivision**
 5 **(2).**

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

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

12 **(i) Police and fire protection.**

13 **(ii) Street and road maintenance.**

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

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

17 **(i) At least sixty-five percent (65%) of the owners of land**
 18 **in the territory proposed to be annexed.**

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

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

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

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

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

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

37 **(i) Police and fire protection.**

38 **(ii) Street and road maintenance.**

39 **(B) The annexation will have a significant financial impact on**
 40 **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 proposed**
 43 **to be annexed.**

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

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

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

7 Page 3, between lines 39 and 40, begin a new paragraph and insert:

8 "SECTION 8. IC 36-4-3-19 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) If disannexation
10 is ordered under this chapter by the works board of a municipality and
11 no appeal is taken, the clerk of the municipality shall, without
12 compensation and not later than ten (10) days after the order is made,
13 make and certify a complete transcript of the disannexation
14 proceedings to the auditor of each county in which the disannexed lots
15 or lands lie ~~and to the state certifying official designated under~~
16 ~~IC 3-6-4.2-11~~ **and to the office of the secretary of state.** The county
17 auditor shall list those lots or lands appropriately for taxation. The
18 proceedings of the works board shall not be certified to the county
19 auditor **or to the office of the secretary of state** if an appeal to the
20 circuit court has been taken.

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

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

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

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

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

37 (1) The county highway department.

38 (2) The county surveyor.

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

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

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

46 The county auditor may require the clerk of the municipality to furnish

1 an adequate number of copies of the list of disannexed lots or lands or
2 may charge the clerk a fee for photoreproduction of the list.

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

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

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

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

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

20 SECTION 9. IC 36-4-3-22 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The clerk of the
22 municipality shall **do the following:**

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

27 (A) the county auditor of each county in which the annexed
28 territory is located;

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

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

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

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

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

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

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

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

- 1 (1) The county highway department.
- 2 (2) The county surveyor.
- 3 (3) Each plan commission, if any, that lost or gained jurisdiction
- 4 over the annexed territory.
- 5 (4) ~~Any state agency that has requested copies of annexations~~
- 6 ~~filed with the county auditor under this section.~~ **The township**
- 7 **trustee of each township that lost or gained jurisdiction over**
- 8 **the annexed territory.**
- 9 **(5) The office of the secretary of state.**
- 10 (e) The county auditor may require the clerk of the municipality to
- 11 furnish an adequate number of copies of the annexation ordinance or
- 12 may charge the clerk a fee for photoreproduction of the ordinance. **The**
- 13 **county auditor shall notify the office of the secretary of state of the**
- 14 **date that the annexation ordinance is effective under this chapter.**
- 15 (f) The county auditor shall, upon determining that an annexation
- 16 ordinance has become effective under this chapter, indicate the
- 17 annexation upon the property taxation records maintained in the office
- 18 of the auditor."
- 19 Renumber all SECTIONS consecutively.
- (Reference is to ESB 167 as printed April 5, 1999.)

Representative Pelath