

HOUSE BILL No. 1491

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.3-6; IC 36-4-3; IC 36-9-24-14.

Synopsis: Annexation procedures. Allows an annexation to be appealed by filing a written remonstrance signed by at least 50% of the owners in the territory or the owners of at least 50% in assessed valuation of the land in the annexed territory. (Current law provides that a written remonstrance must be filed by 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.) Allows a remonstrance to be filed not more than 90 days after publication of the annexation ordinance. (Current law provides that a remonstrance may be filed not more than 60 days after the annexation ordinance is published.) Provides that if a court finds that a remonstrance is
(Continued next page)

Effective: January 1, 1999 (retroactive).

**Pelath, Mock, Cheney, Alderman,
Budak, Kruse, Pond, Ruppel,
Ayres, Smith M, Fry, Torr,
Whetstone, Herrell, Young M,
Tincher, Turner, Saunders**

January 19, 1999, read first time and referred to Committee on Local Government.



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sufficient, the court shall order an annexation not to take place. Allows an owner of real property in the annexed territory or the municipality that is annexing the territory to file an action not more than 120 days after publication of the annexation ordinance requesting a court to enter a judgment voiding the annexation ordinance on the grounds that the ordinance does not comply with legal requirements. Allows a municipality to abate a portion of the property tax liability for municipal purposes for all single family residential property for five years. (Current law allows only St. Joseph County to provide this abatement.) Prohibits a municipality from making further attempts to annex territory for three years after the later of the circuit or superior court judgment or the date of the final disposition of all appeals, unless the landowners in the annexed territory petition for annexation. (Current law provides that a municipality may not make further attempts to annex territory for two years after the judgment or final disposition of all appeals unless the landowners in the territory petition for annexation.) Requires a municipality to provide noncapital services 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. (Current law requires, in counties other than St. Joseph County, that services be provided to the unincorporated area substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality that have topography, patterns of land use, and population density similar to the annexed territory.) Requires a municipality to provide capital services within four years in a manner equivalent in standard and scope to those capital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density. Repeals a provision that allows landowners to petition the municipality to annex territory and requires the municipality to adopt an annexation ordinance if certain requirements are met. Provides that if a court, pursuant to a complaint filed by a landowner, finds that the municipality failed to provide the capital and noncapital services under the fiscal plan, the court is required to order all or part of the territory to be disannexed. Provides that the act applies to an annexation ordinance adopted after January 1, 1999. Voids an annexation that fulfills all of the following requirements: (1) The annexation ordinance was adopted before January 1, 1999. (2) The annexation is effective after January 1, 1999. (3) The annexation ordinance delays the effective date of the annexation for at least one year. (4) A sufficient remonstrance petition was filed against the annexation. Removes the provision that allows a municipality to annex territory if one-fourth of the territory's boundary is contiguous to the municipality and the territory is needed and can be used by the municipality for its development in the reasonably near future. Makes a technical correction.

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Introduced

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.

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HOUSE BILL No. 1491



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 8-1-2.3-6 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
 3 Sec. 6. The boundaries of the assigned service areas of electricity
 4 suppliers may not be changed except under any one (1) of the following
 5 circumstances:
 6 (1) If a municipality which owns and operates an electric utility
 7 system and furnishes retail electric service to the public annexes
 8 area beyond the assigned service area of its municipally owned
 9 electric utility, and the ordinance providing for the annexation
 10 provides that the annexing city has developed a fiscal plan and
 11 has established a definite policy to furnish the territory to be
 12 annexed within a period of three (3) years governmental and
 13 proprietary services substantially equivalent in standard and scope
 14 to the governmental and proprietary services furnished by the
 15 annexing city to other areas of the city which have characteristics



1 of topography, patterns of land utilization, and population density
 2 similar to the territory to be annexed, then the municipally owned
 3 electric utility may petition the commission to change the
 4 assigned service area of the municipally owned electric utility to
 5 include the annexed area. A municipally owned electric utility
 6 shall exercise its right to petition the commission to change its
 7 assigned service area within sixty (60) days after annexation
 8 becomes final or lose its right under this subdivision. The
 9 commission shall rule on the petition of the municipally owned
 10 electric utility within ninety (90) days after its filing. If, upon
 11 notice and after hearing, the commission decides that it is in the
 12 public convenience and necessity for the municipally owned
 13 electric utility to render service to the annexed area, it shall order
 14 the assigned service area of the municipally owned electric utility
 15 to be changed to include the annexed area with the right to serve
 16 and immediate possession to the municipally owned electric
 17 utility. The commission order is enforceable in court pending an
 18 appeal of that order. An appellant from a court order enforcing a
 19 commission order under this subsection shall not be entitled to a
 20 stay of the court order pending appeal. In determining public
 21 convenience and necessity, the commission shall give
 22 consideration to all relevant matters, including but not limited to
 23 the following:

- 24 (A) Preference of owners, occupiers, and consumers in the
 25 annexed area.
- 26 (B) Ability of the municipally owned electric utility to render
 27 service after the assignment of service area.
- 28 (C) Other utility services to be supplied in the annexed area by
 29 the municipality.
- 30 (D) Proximity and capability of the service repair facilities of
 31 the electricity suppliers involved.
- 32 (E) Preference of local government officials.

33 However, this subdivision does not apply to incorporations,
 34 consolidations, mergers, or annexations that are under
 35 IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h), or
 36 IC 36-4-3-4.1, or that are not contiguous. ~~under IC 36-4-3-13(b)~~
 37 ~~or IC 36-4-3-13(c)~~. If any change in an assigned service area is
 38 ordered by the commission, all of the electric utility property of
 39 another electricity supplier which is devoted to retail electric
 40 service within such additional assigned service area shall be
 41 acquired at its then reproduction cost new depreciated value; in
 42 addition, the acquiring electricity supplier shall pay severance



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1 damages limited to, if applicable, the distribution and substation
 2 facilities dedicated to and located within the annexed area or
 3 relocated by reason of the annexation, or an amount equal to two
 4 and one-half (2 1/2) times the previous year's gross electric sales
 5 from the newly assigned service area, whichever is greater. If the
 6 parties do not agree on the amount the acquiring electricity
 7 supplier is to pay, then the commission shall determine said
 8 amount and order its payment in accordance with this subsection.

9 (2) Upon mutual agreement of the affected electricity suppliers
 10 and approval of the commission.

11 (3) In the case where a landowner owns a single tract of land
 12 which is intersected by the boundary lines of two (2) or more
 13 assigned service areas, and retail electric service can best be
 14 supplied by only one (1) electricity supplier, or in the case where
 15 a customer or customers which are housed in a single structure or
 16 which constitute a single governmental, industrial, or institutional
 17 operation, and the electricity suppliers involved are unable to
 18 agree which shall furnish the electric service, any of the electricity
 19 suppliers may submit the matter to the commission for its
 20 determination based upon public convenience and necessity. If,
 21 after notice and hearing, the commission determines that one (1)
 22 or more electricity suppliers are to supply the required retail
 23 electric service and the boundaries of an assigned service area are
 24 to be changed, the assigned service area maps of the electricity
 25 suppliers shall be changed to reflect the new boundaries.

26 SECTION 2. IC 36-4-3-2.2 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 2.2. Before the**
 29 **municipality adopts an annexation ordinance, the municipality**
 30 **shall develop a written fiscal plan and establish a definite policy, by**
 31 **resolution of the legislative body, that shows the following:**

32 (1) **The cost estimates of planned services to be furnished to**
 33 **the territory to be annexed.**

34 (2) **The method or methods of financing the planned services.**

35 (3) **The plan for the organization and extension of services.**

36 (4) **That planned services of a noncapital nature, including**
 37 **police protection, fire protection, street and road**
 38 **maintenance, and other noncapital services normally**
 39 **provided within the corporate boundaries, will be provided to**
 40 **the annexed territory within one (1) year after the effective**
 41 **date of annexation and that they will be provided in a manner**
 42 **equivalent in standard and scope to those noncapital services**



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1 provided to areas within the corporate boundaries regardless
 2 of similar topography, patterns of land use, and population
 3 density.

4 **(5) That services of a capital improvement nature, including**
 5 **street construction, street lighting, sewer facilities, water**
 6 **facilities, and stormwater drainage facilities, will be provided**
 7 **to the annexed territory within four (4) years after the**
 8 **effective date of the annexation, in the same manner as those**
 9 **services are provided to areas within the corporate**
 10 **boundaries, regardless of similar topography, patterns of land**
 11 **use, or population density.**

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

16 SECTION 3. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 7. (a) After
 18 an ordinance is adopted under section 3 ~~or 4 or 5~~ of this chapter, it
 19 must be published in the manner prescribed by IC 5-3-1. Except as
 20 provided in subsection (b) or ~~(c)~~; **(d)**, in the absence of ~~a~~ remonstrance
 21 **under section 11 of this chapter, and an** appeal under section ~~11~~ ~~or~~
 22 **15.5 of this chapter, or an action under section 11.1 of this chapter,**
 23 the ordinance takes effect at least sixty (60) days after its publication
 24 and upon the filing required by section 22(a) of this chapter.

25 (b) An ordinance described in subsection (d) or adopted under
 26 section 3 ~~or 4 or 5~~ of this chapter may not take effect during the year
 27 preceding a year in which a federal decennial census is conducted. An
 28 ordinance that would otherwise take effect during the year preceding
 29 a year in which a federal decennial census is conducted takes effect
 30 January 2 of the year in which a federal decennial census is conducted.

31 (c) Subsections (d) and (e) apply to fire protection districts that are
 32 established after June 14, 1987.

33 (d) Except as provided in subsection (b), whenever a municipality
 34 annexes territory, all or part of which lies within a fire protection
 35 district (IC 36-8-11), the annexation ordinance (in the absence of ~~a~~
 36 remonstrance **under section 11 of this chapter, and an** appeal under
 37 section ~~11~~ ~~or~~ **15.5 of this chapter, or an action under section 11.1 of**
 38 **this chapter**) takes effect the second January 1 that follows the date the
 39 ordinance is adopted and upon the filing required by section 22(a) of
 40 this chapter. The municipality shall:

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

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

4 (e) If the fire protection district from which a municipality annexes
 5 territory under subsection (d) is indebted or has outstanding unpaid
 6 bonds or other obligations at the time the annexation is effective, the
 7 municipality is liable for and shall pay that indebtedness in the same
 8 ratio as the assessed valuation of the property in the annexed territory
 9 (that is part of the fire protection district) bears to the assessed
 10 valuation of all property in the fire protection district, as shown by the
 11 most recent assessment for taxation before the annexation, unless the
 12 assessed property within the municipality is already liable for the
 13 indebtedness. The annexing municipality shall pay its indebtedness
 14 under this section to the board of fire trustees. If the indebtedness
 15 consists of outstanding unpaid bonds or notes of the fire protection
 16 district, the payments to the board of fire trustees shall be made as the
 17 principal or interest on the bonds or notes becomes due.

18 SECTION 4. IC 36-4-3-8.5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
 20 Sec. 8.5. (a) A municipality may, in an ordinance adopted under section
 21 3 or 4 of this chapter, abate a portion of the property tax liability under
 22 IC 6-1.1 for municipal purposes for all property owners in the annexed
 23 territory.

24 (b) An ordinance adopted under subsection (a) must provide the
 25 following:

- 26 (1) A tax abatement program that is in effect for not more than:
 27 (A) three (3) taxable years after an annexation occurs **for an**
 28 **abatement under subdivision (2); and**
 29 (B) **five (5) taxable years after an annexation occurs for an**
 30 **abatement under subdivision (3).**

31 (2) Except single family residential property described by
 32 subdivision (3), a tax abatement for all classes of property that
 33 does not exceed:

34 (A) seventy-five percent (75%) of a taxpayer's liability in the
 35 first year of the abatement program;

36 (B) fifty percent (50%) of a taxpayer's liability in the second
 37 year of the abatement program; and

38 (C) twenty-five percent (25%) of a taxpayer's liability in the
 39 third year of the abatement program.

40 (3) ~~For a county having a population of more than two hundred~~
 41 ~~thousand (200,000) but less than three hundred thousand~~
 42 ~~(300,000);~~ A tax abatement for single family residential property

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1 that does not exceed:

2 (A) ninety percent (90%) of a taxpayer's liability in the first
3 year of the abatement program;

4 (B) eighty percent (80%) of a taxpayer's liability in the second
5 year of the abatement program;

6 (C) sixty percent (60%) of a taxpayer's liability in the third
7 year of the abatement program;

8 (D) forty percent (40%) of a taxpayer's liability in the fourth
9 year of the abatement program; and

10 (E) twenty percent (20%) of a taxpayer's liability in the fifth
11 year of the abatement program.

12 (4) The procedure by which an eligible property owner receives
13 a tax abatement under this section.

14 SECTION 5. IC 36-4-3-11 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

16 Sec. 11. (a) Whenever territory is annexed by a municipality under this
17 chapter, the annexation may be appealed by filing with the circuit or
18 superior court of a county in which the annexed territory is located a
19 written remonstrance signed by **at least:**

20 (1) **a majority fifty percent (50%)** of the owners of land in the
21 annexed territory; or

22 (2) the owners of ~~more than seventy-five~~ **fifty percent (75%)**
23 ~~(50%) in of the~~ assessed valuation of the land in the annexed
24 territory.

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

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

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



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1 determines that a remonstrance has the number of signatures
 2 required under subsection (a), the court shall order the annexation
 3 not to take place.

4 (d) If the court determines that a remonstrance does not have
 5 the number of signatures required under subsection (a), the court
 6 shall dismiss the remonstrance.

7 SECTION 6. IC 36-4-3-11.1 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 11.1. (a) An owner of
 10 real property located within:**

11 (1) the annexed territory; or

12 (2) the municipality annexing the territory;

13 may, not more than one hundred twenty (120) days after the
 14 annexation ordinance is published as provided under section 7 of
 15 this chapter, file an action in the circuit or superior court where
 16 the annexation is located requesting the court to enter a judgment
 17 voiding the annexation ordinance on the grounds that the
 18 annexation does not comply with the requirements of this chapter.

19 (b) The laws providing for change of venue from the county do
 20 not apply to an action under this section, but changes of venue
 21 from the judge may be had as in other cases. Costs shall be paid by
 22 the prevailing party.

23 (c) If:

24 (1) a remonstrance is filed under section 11 of this chapter; or

25 (2) an appeal is filed under section 15.5 of this chapter;

26 the court shall stay an action under this section to void an
 27 annexation ordinance until the court enters a judgment on the
 28 remonstrance or appeal. If the court's judgment on the
 29 remonstrance or appeal is adverse to the annexation, the court
 30 shall dismiss the action filed under this section to void the
 31 annexation ordinance.

32 SECTION 7. IC 36-4-3-11.2 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 34 JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 11.2. An annexation
 35 may not take effect during the year preceding the year in which a
 36 federal decennial census is conducted. An annexation that would
 37 otherwise take effect during the year preceding a year in which a
 38 federal decennial census is conducted takes effect January 2 of the
 39 year in which a federal decennial census is conducted.**

40 SECTION 8. IC 36-4-3-11.3 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 42 JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 11.3. The territory**



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1 sought to be annexed is not considered a part of the municipality
2 pending:

- 3 (1) a remonstrance under section 11 of this chapter;
4 (2) an appeal under section 15.5 of this chapter; or
5 (3) an action under section 11.1 of this chapter.

6 SECTION 9. IC 36-4-3-13.1 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
8 JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 13.1. (a) Except as
9 provided in sections 4 and 4.1 of this chapter, an annexation must
10 meet the requirements of subsection (b).**

11 (b) **The requirements of this subsection are met if:**

- 12 (1) **the territory sought to be annexed is contiguous to the
13 municipality; and**
14 (2) **one (1) of the following conditions is met:**
15 (A) **The resident population density of the territory sought
16 to be annexed is at least three (3) persons per acre.**
17 (B) **Sixty percent (60%) of the territory is subdivided.**
18 (C) **The territory is zoned for commercial, business, or
19 industrial uses.**

20 (c) **In an action under section 11.1 of this chapter, the federal
21 census data established by IC 1-1-4-5(17) shall be used as evidence
22 of resident population density for purposes of subsection (b)(2)(A),
23 but this evidence may be rebutted by other evidence of population
24 density.**

25 SECTION 10. IC 36-4-3-15 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
27 **Sec. 15. (a) The court's judgment under section ~~11~~ 11.1, or 15.5 of
28 this chapter must specify the annexation ordinance ~~on which the~~
29 ~~remonstrance is based. that is the subject of the action,~~
30 **remonstrance, or appeal.** The clerk of the court shall deliver a
31 certified copy of the judgment to the clerk of the municipality. The
32 clerk of the municipality shall:**

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

36 (b) **If a judgment under section ~~11~~ 11 or 15.5 of this chapter is
37 adverse to annexation, or the annexation ordinance is voided under
38 section 11.1 of this chapter, the municipality may not make further
39 attempts to annex the territory during the ~~two (2)~~ three (3) years after
40 the later of:**

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



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

2 (c) If a judgment under section ~~12~~ or ~~15.5~~ of this chapter orders the
3 annexation to take place, **If a judgment:**

4 **(1) dismisses an appeal under section 15.5 of this chapter;**

5 **(2) dismisses a remonstrance under section 11 of this chapter;**
6 **or**

7 **(3) affirms the validity of an annexation ordinance under**
8 **section 11.1 of this chapter;**

9 the annexation is effective when the clerk of the municipality complies
10 with the filing requirement of section 22(a) of this chapter.

11 SECTION 11. IC 36-4-3-16 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

13 Sec. 16. (a) Within one (1) year after the expiration of:

14 (1) the one (1) year period for implementation of planned services
15 of a noncapital nature under section ~~13(d)(4)~~ **2.2(4)** of this
16 chapter; **or**

17 ~~(2) the three (3) year period for the implementation of planned~~
18 ~~services of a capital improvement nature under section 13(d)(5) of~~
19 ~~this chapter; or~~

20 ~~(3) (2) the four (4) year period for the implementation of planned~~
21 ~~services of a capital improvement nature under section 13(d)(5)~~
22 **2.2(5)** of this chapter by a **city municipality** for annexed territory;
23 **in a county having a population of more than two hundred**
24 **thousand (200,000) but less than three hundred thousand**
25 **(300,000);**

26 any person who pays taxes on property located within the annexed
27 territory may file a complaint alleging injury resulting from the failure
28 of the municipality to implement the plan. The complaint must name
29 the municipality as defendant and shall be filed with the circuit or
30 superior court of the county in which the annexed territory is located.

31 (b) The court shall hear the case within sixty (60) days without a
32 jury. In order to be granted relief, the plaintiff must establish one (1) of
33 the following:

34 (1) That the municipality has without justification failed to
35 implement the plan required by section ~~13~~ **2.2** of this chapter
36 within the specific time limit for implementation after annexation.

37 (2) That the municipality has not provided police protection, fire
38 protection, sanitary sewers, and water for human consumption
39 within the specific time limit for implementation, unless one (1)
40 of these services is being provided by a separate taxing district or
41 by a privately owned public utility.

42 ~~(3) That the annexed territory is not receiving governmental and~~



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1 proprietary services substantially equivalent in standard and scope
 2 to the services provided by the municipality to other areas of the
 3 municipality that have topography, patterns of land use, and
 4 population density similar to the annexed territory. However, in
 5 a county having a population of more than two hundred thousand
 6 (200,000) but less than three hundred thousand (300,000); the
 7 plaintiff must establish That the annexed territory is not receiving
 8 governmental and proprietary services substantially equivalent in
 9 standard and scope to the services provided by the city
 10 **municipality** regardless of similar topography, patterns of land
 11 use, or population density.

12 (c) The court ~~may~~: **shall**

13 (1) grant an injunction prohibiting the collection of taxes levied
 14 by the municipality on the plaintiff's property located in the
 15 annexed territory;

16 (2) award damages to the plaintiff not to exceed one and
 17 one-fourth (1 1/4) times the taxes collected by the municipality
 18 for the plaintiff's property located in the annexed territory;

19 (3) order the annexed territory or any part of it to be disannexed
 20 from the municipality.

21 (4) order the municipality to submit a revised fiscal plan for
 22 providing the services to the annexed territory within time limits
 23 set up by the court; or

24 (5) grant any other appropriate relief.

25 (d) A change of venue from the county is not permitted for an action
 26 brought under this section.

27 (e) If the court finds for the plaintiff, the defendant shall pay all
 28 court costs and reasonable attorney's fees as approved by the court.

29 (f) The provisions of this chapter that apply to territory disannexed
 30 by other procedures apply to territory disannexed under this section.

31 SECTION 12. IC 36-4-3-22 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

33 Sec. 22. (a) The clerk of the municipality shall **do the following**:

34 (1) File each annexation ordinance against which a remonstrance,
 35 **an action under section 11.1 of this chapter**, or an appeal has
 36 not been filed during the period permitted under this chapter or
 37 the certified copy of a judgment ordering an annexation to take
 38 place with:

39 (A) the county auditor of each county in which the annexed
 40 territory is located;

41 (B) the circuit court clerk, and if a board of registration exists,
 42 the board of each county in which the annexed territory is



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- 1 located; and
- 2 ~~(C)~~ the state certifying official designated under IC 3-6-4.2-11;
- 3 and
- 4 as set forth in subsection (b).
- 5 **(2) As set forth in subsection (b), file the certified copy of a**
- 6 **judgment:**
- 7 **(A) dismissing an appeal under section 15.5 of this chapter;**
- 8 **(B) dismissing a remonstrance under section 11 of this**
- 9 **chapter; or**
- 10 **(C) affirming the validity of an annexation ordinance in an**
- 11 **action under section 11.1 of this chapter.**
- 12 ~~(2)~~ **(3) Record each annexation ordinance adopted under this**
- 13 chapter in the office of the county recorder of each county in
- 14 which the annexed territory is located.
- 15 **(b) The clerk of the municipality shall file the ordinance or**
- 16 **judgment as set forth in subsection (a)(1) and (a)(2) with the**
- 17 **following:**
- 18 **(1) The county auditor of each county in which the annexed**
- 19 **territory is located.**
- 20 **(2) The circuit court clerk, and, if a board of registration**
- 21 **exists, the board of each county in which the annexed**
- 22 **territory is located.**
- 23 **(3) The secretary of state.**
- 24 ~~(b)~~ **(c) The copy must be filed and recorded no later than ninety (90)**
- 25 days after:
- 26 (1) the expiration of the period permitted for a ~~remonstrance or~~
- 27 ~~appeal~~; **filing an action under section 11.1 of this chapter;** or
- 28 (2) the delivery of a certified order under section 15 of this
- 29 chapter.
- 30 ~~(c)~~ **(d) Failure to record the annexation ordinance as provided in**
- 31 subsection ~~(a)(2)~~ **(a)(3)** does not invalidate the ordinance.
- 32 ~~(d)~~ **(e) The county auditor shall forward a copy of any annexation**
- 33 ordinance filed under this section to the following:
- 34 (1) The county highway department.
- 35 (2) The county surveyor.
- 36 (3) Each plan commission, if any, that lost or gained jurisdiction
- 37 over the annexed territory.
- 38 (4) Any state agency that has requested copies of annexations
- 39 filed with the county auditor under this section.
- 40 ~~(e)~~ **(f) The county auditor may require the clerk of the municipality**
- 41 to furnish an adequate number of copies of the annexation ordinance
- 42 or may charge the clerk a fee for photoreproduction of the ordinance.

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1 ⊕ (g) The county auditor shall, upon determining that an
2 annexation ordinance has become effective under this chapter, indicate
3 the annexation upon the property taxation records maintained in the
4 office of the auditor.

5 SECTION 13. IC 36-9-24-14 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
7 Sec. 14. A municipality that leases and operates sewage disposal
8 facilities in an area within one (1) mile outside its corporate boundaries
9 is considered to be furnishing sewage and sewer service in that area for
10 purposes of ~~IC 36-4-3-13~~. **IC 36-4-3-2.2.**

11 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
12 JANUARY 1, 1999 (RETROACTIVE)]: IC 36-4-3-5; IC 36-4-3-12;
13 IC 36-4-3-13; IC 36-4-3-14; IC 36-4-3-15.3.

14 SECTION 15. [EFFECTIVE JANUARY 1, 1999
15 (RETROACTIVE)] **IC 36-4-3, as amended by this act, applies to an
16 annexation ordinance adopted after January 1, 1999.**

17 SECTION 16. [EFFECTIVE JANUARY 1, 1999
18 (RETROACTIVE)] **(a) This SECTION applies to an annexation that
19 fulfills all of the following requirements:**

- 20 **(1) The annexation ordinance was adopted before January 1,**
- 21 **1999.**
- 22 **(2) The annexation is effective after January 1, 1999.**
- 23 **(3) The annexation ordinance delays the effective date of the**
- 24 **annexation for at least one (1) year.**
- 25 **(4) A remonstrance was filed against the annexation that a**
- 26 **court determined to be sufficient under IC 36-4-3-11.**
- 27 **(b) An annexation described in subsection (a) is void.**
- 28 **SECTION 17. An emergency is declared for this act.**

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