

## CONFERENCE COMMITTEE REPORT DIGEST FOR HB 1608

**Citations Affected:** IC 8-1-2.3-6; IC 36-4-3.

**Synopsis:** Annexation. Provides that the effective date of an annexation may not be postponed for more than three years. 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. 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. Provides that for a municipality other than a city in St. Joseph County, one factor the court may consider in determining whether an annexation should take place is whether the annexation is in the best interests of the landowners in the territory proposed to be annexed. 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 sheriff, the county election board, the secretary of state and the township trustee must receive annexation and disannexation filings. Makes technical amendments. (This conference committee report does the following: (1) Removes notice provisions already contained in SEA 167-1999; (2) Specifies the information that must be included in an annexation ordinance. (3) Provides that the effective date of an annexation may not be postponed for more than three years. (4) Provides that for a municipality other than a city in St. Joseph County, one factor the court may consider in determining whether an annexation should take place is whether the annexation is in the best interests of the landowners in the territory proposed to be annexed. (5) Adds the sheriff and the county election board to the entities that receive annexation and disannexation filings. (6) Makes technical amendments.)

**Effective:** July 1, 1999.



# CONFERENCE COMMITTEE REPORT

**MR. PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1608 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

1           Page 1, delete lines 1 through 17.  
2           Page 2, delete line 1, begin a new paragraph and insert:  
3           "SECTION 1. IC 8-1-2.3-6 IS AMENDED TO READ AS  
4           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The boundaries of  
5           the assigned service areas of electricity suppliers may not be changed  
6           except under any one (1) of the following circumstances:  
7           (1) If a municipality which owns and operates an electric utility  
8           system and furnishes retail electric service to the public annexes  
9           area beyond the assigned service area of its municipally owned  
10          electric utility, and the ordinance providing for the annexation  
11          provides that the annexing city has developed and adopted a  
12          fiscal plan and has established a definite policy to furnish the  
13          territory to be annexed within a period of three (3) **or four (4)**  
14          years governmental and proprietary services substantially  
15          equivalent in standard and scope to the governmental and  
16          proprietary services furnished by the annexing city to other areas  
17          of the city ~~which have characteristics~~ **regardless** of topography,  
18          patterns of land utilization and population density similar to the  
19          territory to be annexed, then the municipally owned electric  
20          utility may petition the commission to change the assigned  
21          service area of the municipally owned electric utility to include  
22          the annexed area. A municipally owned electric utility shall  
23          exercise its right to petition the commission to change its  
24          assigned service area within sixty (60) days after annexation  
25          becomes final or lose its right under this subdivision. The  
26          commission shall rule on the petition of the municipally owned  
27          electric utility within ninety (90) days after its filing. If, upon

1 notice and after hearing, the commission decides that it is in the  
 2 public convenience and necessity for the municipally owned  
 3 electric utility to render service to the annexed area, it shall order  
 4 the assigned service area of the municipally owned electric  
 5 utility to be changed to include the annexed area with the right  
 6 to serve and immediate possession to the municipally owned  
 7 electric utility. The commission order is enforceable in court  
 8 pending an appeal of that order. An appellant from a court order  
 9 enforcing a commission order under this subsection shall not be  
 10 entitled to a stay of the court order pending appeal. In  
 11 determining public convenience and necessity, the commission  
 12 shall give consideration to all relevant matters, including but not  
 13 limited to the following:

- 14 (A) Preference of owners, occupiers, and consumers in the  
 15 annexed area.
- 16 (B) Ability of the municipally owned electric utility to  
 17 render service after the assignment of service area.
- 18 (C) Other utility services to be supplied in the annexed area  
 19 by the municipality.
- 20 (D) Proximity and capability of the service repair facilities  
 21 of the electricity suppliers involved.
- 22 (E) Preference of local government officials.

23 However, this subdivision does not apply to incorporations,  
 24 consolidations, mergers, or annexations that are under  
 25 IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h), or  
 26 IC 36-4-3-4.1, or that are not contiguous under IC 36-4-3-13(b)  
 27 or IC 36-4-3-13(c). If any change in an assigned service area is  
 28 ordered by the commission, all of the electric utility property of  
 29 another electricity supplier which is devoted to retail electric  
 30 service within such additional assigned service area shall be  
 31 acquired at its then reproduction cost new depreciated value; in  
 32 addition, the acquiring electricity supplier shall pay severance  
 33 damages limited to, if applicable, the distribution and substation  
 34 facilities dedicated to and located within the annexed area or  
 35 relocated by reason of the annexation, or an amount equal to two  
 36 and one-half (2 1/2) times the previous year's gross electric sales  
 37 from the newly assigned service area, whichever is greater. If the  
 38 parties do not agree on the amount the acquiring electricity  
 39 supplier is to pay, then the commission shall determine said  
 40 amount and order its payment in accordance with this  
 41 subsection.

42 (2) Upon mutual agreement of the affected electricity suppliers  
 43 and approval of the commission.

44 (3) In the case where a landowner owns a single tract of land  
 45 which is intersected by the boundary lines of two (2) or more  
 46 assigned service areas, and retail electric service can best be  
 47 supplied by only one (1) electricity supplier, or in the case where  
 48 a customer or customers which are housed in a single structure  
 49 or which constitute a single governmental, industrial, or  
 50 institutional operation, and the electricity suppliers involved are  
 51 unable to agree which shall furnish the electric service, any of

1 the electricity suppliers may submit the matter to the commission  
 2 for its determination based upon public convenience and  
 3 necessity. If, after notice and hearing, the commission  
 4 determines that one (1) or more electricity suppliers are to  
 5 supply the required retail electric service and the boundaries of  
 6 an assigned service area are to be changed, the assigned service  
 7 area maps of the electricity suppliers shall be changed to reflect  
 8 the new boundaries."

9 Page 2, delete lines 2 through 33, begin a new paragraph and  
 10 insert:

11 "SECTION 2. IC 36-4-3-2.2, AS ADDED BY SEA 167-1999, IS  
 12 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:  
 13 Sec. 2.2. (a) This section does not apply to an annexation under section  
 14 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

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

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

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

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

25 (3) A map ~~of~~ **showing** the current municipal boundaries and a  
 26 ~~map of~~ the proposed municipal boundaries.

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

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

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

34 (7) A statement that the municipality will provide a copy of the  
 35 fiscal plan **after the fiscal plan is adopted** immediately to any  
 36 landowner in the annexed territory who requests a copy.

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

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

41 Page 2, delete lines 34 through 42.

42 Page 3, delete lines 1 through 5, begin a new paragraph and insert:

43 "SECTION 3. IC 36-4-3-3.1, AS ADDED BY SEA 167-1999, IS  
 44 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:  
 45 Sec. 3.1. (a) This section does not apply to an annexation under section  
 46 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

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

50 (c) Except as provided in subsection (d), the municipality shall  
 51 establish **and adopt** the written fiscal plan before mailing the

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

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

6 SECTION 4. IC 36-4-3-3.5 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
8 1, 1999]: **Sec. 3.5. (a) An annexation ordinance adopted under this  
9 chapter must contain the following information:**

10 (1) **A description of the boundaries of the territory to be  
11 annexed, including any public highway or right-of-way.**

12 (2) **The approximate number of acres in the territory to be  
13 annexed.**

14 (3) **A description of any special terms and conditions adopted  
15 under section 8 of this chapter.**

16 (b) **An ordinance adopted under section 3 or 4 of this chapter  
17 must also contain a description of any property tax abatements  
18 adopted under section 8.5 of this chapter.**

19 SECTION 5. IC 36-4-3-8, AS AMENDED BY SEA 167-1999, IS  
20 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:  
21 Sec. 8. (a) This section does not apply to an ordinance adopted under  
22 section 5 of this chapter.

23 (b) An ordinance adopted under section 3 or 4 of this chapter must  
24 include terms and conditions fairly calculated to make the annexation  
25 equitable to the property owners and residents of the municipality and  
26 the annexed territory. The terms and conditions may include:

27 (1) postponing the effective date of the annexation **for not more  
28 than three (3) years**; and

29 (2) establishing equitable provisions for the future management  
30 and improvement of the annexed territory and for the rendering  
31 of needed services.

32 (c) This subsection applies to territory sought to be annexed that  
33 meets all of the following requirements:

34 (1) The resident population density of the territory is at least  
35 three (3) persons per acre.

36 (2) The territory is subdivided or is parceled through separate  
37 ownerships into lots or parcels such that at least sixty percent  
38 (60%) of the total number of lots and parcels are not more than  
39 one (1) acre.

40 This subsection does not apply to an ordinance annexing territory  
41 described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The  
42 ordinance must include terms and conditions impounding in a special  
43 fund all of the municipal property taxes imposed on the annexed  
44 territory after the annexation takes effect that are not used to meet the  
45 basic services described in section 13(d)(4) and 13(d)(5) of this chapter  
46 for a period of at least three (3) years. The impounded property taxes  
47 must be used to provide additional services that were not specified in  
48 the plan of annexation. The impounded property taxes in the fund shall  
49 be expended as set forth in this section, not later than five (5) years  
50 after the annexation becomes effective."

51 Page 3, delete lines 6 through 42.

1 Page 4, delete line 1, begin a new paragraph and insert:  
 2 "SECTION 6. IC 36-4-3-11, AS AMENDED BY SEA 167-1999,  
 3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 4 1999]: Sec. 11. (a) Whenever territory is annexed by a municipality  
 5 under this chapter, the annexation may be appealed by filing with the  
 6 circuit or superior court of a county in which the annexed territory is  
 7 located a written remonstrance signed by:

8 (1) if the annexation is by a city in a county with a population ~~or~~  
 9 ~~of~~ more than two hundred thousand (200,000) but less than three  
 10 hundred thousand (300,000):

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

13 (B) the owners of more than seventy-five percent (75%) in  
 14 assessed valuation of the land in the annexed territory; ~~or~~

15 (2) if the annexation is by a municipality ~~in a county~~ that is not  
 16 described in subdivision (1):

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

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

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

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

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

39 Page 4, delete lines 2 through 42.

40 Delete pages 5 through 6.

41 Page 7, delete lines 1 through 10, begin a new paragraph and  
 42 insert:

43 "SECTION 7. IC 36-4-3-13, AS AMENDED BY SEA 167-1999,  
 44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 45 1999]: Sec. 13. (a) Except as provided in subsections (e) and ~~(f)~~, (g),  
 46 at the hearing under section 12 of this chapter, the court shall order a  
 47 proposed annexation to take place if the following requirements are  
 48 met:

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

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

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

1 establishes the following:

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

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

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

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

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

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

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

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

20 (d) The requirements of this subsection are met if the evidence  
21 establishes that the municipality has developed **and adopted** a written  
22 fiscal plan and has established a definite policy, by resolution of the  
23 legislative body as set forth in section 3.1 of this chapter. The  
24 ~~resolution~~ **fiscal plan** must show the following:

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

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

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

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

44 (5) That services of a capital improvement nature, including  
45 street construction, street lighting, sewer facilities, water  
46 facilities, and stormwater drainage facilities, will be provided to  
47 the annexed territory within three (3) years after the effective  
48 date of the annexation in the same manner as those services are  
49 provided to areas within the corporate boundaries, regardless of  
50 similar topography, patterns of land use, and population density,  
51 and in a manner consistent with federal, state, and local laws,

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

9 (e) This subsection does not apply to a city located in a county  
 10 having a population of more than two hundred thousand (200,000) but  
 11 less than three hundred thousand (300,000). At the hearing under  
 12 section 12 of this chapter, the court shall do the following:

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

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

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

19 (i) Police and fire protection.

20 (ii) Street and road maintenance.

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

23 **(C) The annexation is not in the best interests of the**  
 24 **owners of land in the territory proposed to be annexed**  
 25 **as set forth in subsection (f).**

26 ~~(D)~~ **(D)** One (1) of the following opposes the annexation:

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

29 (ii) The owners of more than seventy-five percent  
 30 (75%) in assessed valuation of the land in the territory  
 31 proposed to be annexed.

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

34 **(f) The municipality under subsection (e)(2)(C) bears the**  
 35 **burden of proving that the annexation is in the best interests of the**  
 36 **owners of land in the territory proposed to be annexed. In**  
 37 **determining this issue, the court may consider whether the**  
 38 **municipality has extended sewer or water services to the entire**  
 39 **territory to be annexed:**

40 **(1) within the three (3) years preceding the date of the**  
 41 **introduction of the annexation ordinance; or**

42 **(2) under a contract in lieu of annexation entered into under**  
 43 **IC 36-4-3-21.**

44 **The court may not consider the provision of water services as a**  
 45 **result of an order by the Indiana utility regulatory commission to**  
 46 **constitute the provision of water services to the territory to be**  
 47 **annexed.**

48 ~~(g)~~ **(g)** This subsection applies only to cities located in a county  
 49 having a population of more than two hundred thousand (200,000) but  
 50 less than three hundred thousand (300,000). However, ~~This~~ this  
 51 subsection does not apply if on April 1, 1993, the entire boundary of

1 the territory that is proposed to be annexed was contiguous to territory  
 2 that was within the boundaries of one (1) or more municipalities. At the  
 3 hearing under section 12 of this chapter, the court shall do the  
 4 following:

5 (1) Consider evidence on the conditions listed in subdivision (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 annexation:

11 (i) Police and fire protection.

12 (ii) Street and road maintenance.

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

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

16 (i) A majority of the owners of land in the territory  
 17 proposed to be annexed.

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

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

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

27 SECTION 8. IC 36-4-3-16 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Within one (1)  
 29 year after the expiration of:

30 (1) the one (1) year period for implementation of planned  
 31 services of a noncapital nature under section 13(d)(4) of this  
 32 chapter;

33 (2) the three (3) year period for the implementation of planned  
 34 services of a capital improvement nature under section 13(d)(5)  
 35 of this chapter; or

36 (3) the four (4) year period for the implementation of planned  
 37 services of a capital improvement nature under section 13(d)(5)  
 38 of this chapter by a city for annexed territory in a county having  
 39 a population of more than two hundred thousand (200,000) but  
 40 less than three hundred thousand (300,000);

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

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

49 (1) That the municipality has without justification failed to  
 50 implement the plan required by section 13 of this chapter within  
 51 the specific time limit for implementation after annexation.

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

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

18 (c) The court may:

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

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

25 (3) order the annexed territory or any part of it to be disannexed  
 26 from the municipality;

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

30 (5) grant any other appropriate relief.

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

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

35 (f) The provisions of this chapter that apply to territory disannexed  
 36 by other procedures apply to territory disannexed under this section."

37 Page 7, delete lines 11 through 42.

38 Page 8, delete lines 1 through 26, begin a new paragraph and  
 39 insert:

40 "SECTION 9. IC 36-4-3-19, AS AMENDED BY SEA 167-1999,  
 41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 42 1999]: Sec. 19. (a) If disannexation is ordered under this chapter by the  
 43 works board of a municipality and no appeal is taken, the clerk of the  
 44 municipality shall, without compensation and not later than ten (10)  
 45 days after the order is made, make and certify a complete transcript of  
 46 the disannexation proceedings to the auditor of each county in which  
 47 the disannexed lots or lands lie ~~IC~~ and to the office of the secretary of  
 48 state. The county auditor shall list those lots or lands appropriately for  
 49 taxation. The proceedings of the works board shall not be certified to  
 50 the county auditor or to the office of the secretary of state if an appeal  
 51 to the circuit court has been taken.

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

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

10 (2) the office of the secretary of state; ~~and~~

11 (3) the circuit court clerk ~~and of each county in which the lands~~  
 12 **or lots affected are located;**

13 **(4) the county election board of each county in which the**  
 14 **lands or lots affected are located; and**

15 **(5) if a board of registration exists, the board of each county in**  
 16 **which the lands or lots affected are located.**

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

19 (1) The county highway department **of each county in which**  
 20 **the lands or lots affected are located.**

21 (2) The county surveyor **of each county in which the lands or**  
 22 **lots affected are located.**

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

25 (4) The township trustee of each township that lost or gained  
 26 jurisdiction over the disannexed territory.

27 **(5) The sheriff of each county in which the lands or lots**  
 28 **affected are located.**

29 ~~(5)~~ **(6) The office of the secretary of state.**

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

33 (d) A disannexation described by this section takes effect upon the  
 34 clerk of the municipality filing the order with:

35 (1) the county auditor of each county in which the annexed  
 36 territory is located; and

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

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

42 (f) A disannexation order under this chapter may not take effect  
 43 during the year preceding a year in which a federal decennial census is  
 44 conducted. A disannexation order that would otherwise take effect  
 45 during the year preceding a year in which a federal decennial census is  
 46 conducted takes effect January 2 of the year in which a federal  
 47 decennial census is conducted."

48 Page 8, delete lines 27 through 42.

49 Page 9, delete lines 1 through 29, begin a new paragraph and  
 50 insert:

51 "SECTION 10. IC 36-4-3-22, AS AMENDED BY SEA 167-1999,

1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2 1999]: Sec. 22. (a) The clerk of the municipality shall do the following:

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

7 (A) the county auditor of each county in which the annexed  
8 territory is located;

9 (B) the circuit court clerk **of each county in which the**  
10 **annexed territory is located; or**

11 (C) if a board of registration exists, the **registration** board  
12 of each county in which the annexed territory is located; and

13 ~~(C) the state certifying official designated under~~  
14 ~~IC 3-6-4.2-11; and (D) the office of the secretary of state;~~  
15 **and**

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

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

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

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

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

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

29 (1) The county highway department **of each county in which**  
30 **the lots or lands affected are located.**

31 (2) The county surveyor **of each county in which the lots or**  
32 **lands affected are located.**

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

35 **(4) The sheriff of each county in which the lots or lands**  
36 **affected are located.**

37 ~~(4)~~ **(5)** The township trustee of each township that lost or gained  
38 jurisdiction over the annexed territory.

39 ~~(5)~~ **(6)** The office of the secretary of state.

40 (e) 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.  
43 The county auditor shall notify the office of the secretary of state of the  
44 date that the annexation ordinance is effective under this chapter.

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

(Reference is to EHB 1608 as reprinted April 9, 1999.)

**Conference Committee Report**  
**on**  
**House Bill 1608**

**S**igned by:

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Senator Long

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Representative Bailey

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Senator Antich

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Representative Scholer

**Senate Conferees**

**House Conferees**