

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1608, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be **AMENDED** as follows:

- 1 Page 1, delete lines 1 through 10.
- 2 Page 1, line 13, delete "section 3, 4, 4.1, or 5 of".
- 3 Page 1, line 16, delete "at least fifteen (15)" and insert "**not earlier**
- 4 **than sixty (60)**".
- 5 Page 2, line 3, after "be" insert ":".
- 6 Page 2, line 3, before "published" begin a new line block indented
- 7 and insert "**(1)**".
- 8 Page 2, line 3, delete "one (1) time".
- 9 Page 2, line 4, delete "." and insert ", **except that the notice must**
- 10 **be published at least sixty (60) days before the hearing; and**
- 11 **(2) mailed as required by section 2.2 of this chapter, if section**
- 12 **2.2 of this chapter applies to the annexation.**".
- 13 Page 2, line 5, delete "If the ordinance is introduced under section
- 14 3 or 4 of this" and insert "**A municipality may adopt an ordinance**
- 15 **under this chapter not earlier than thirty (30) days or not later**
- 16 **than sixty (60) days after the legislative body has held the public**
- 17 **hearing under subsection (a).**".
- 18 Page 2, delete lines 6 through 42, begin a new paragraph, and insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **(b) A municipality shall develop a written fiscal plan and
38 establish a definite policy by resolution of the legislative body that**

1 meets the requirements of section 13 of this chapter.

2 (c) Except as provided in subsection (d), the municipality shall
3 establish the written fiscal plan before mailing the notification to
4 landowners in the territory proposed to be annexed under section
5 2.2 of this chapter.

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

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

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

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

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

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

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

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

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

34 (b) On receipt of the remonstrance, the court shall determine
35 whether the remonstrance has the necessary signatures. In determining
36 the total number of landowners of the annexed territory and whether
37 signers of the remonstrance are landowners, the names appearing on
38 the tax duplicate for that territory constitute prima facie evidence of

1 ownership. Only one (1) person having an interest in each single
 2 property, as evidenced by the tax duplicate, is considered a landowner
 3 for purposes of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (d) The requirements of this subsection are met if the evidence
 37 establishes that the municipality has developed a written fiscal plan and
 38 has established a definite policy, by resolution of the legislative body

1 **described in section 3.1 of this chapter. as of the date of passage of**
 2 **the annexation ordinance.** The resolution must show the following:

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

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

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

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

28 (5) That services of a capital improvement nature, including street
 29 construction, street lighting, sewer facilities, water facilities, and
 30 stormwater drainage facilities, will be provided to the annexed
 31 territory within three (3) years after the effective date of the
 32 annexation in the same manner as those services are provided to
 33 areas within the corporate boundaries, **that have regardless of**
 34 **similar topography, patterns of land use, and population density,**
 35 **and in a manner consistent with federal, state, and local laws,**
 36 **procedures, and planning criteria. However, in a county having a**
 37 **population of more than two hundred thousand (200,000) but less**
 38 **than three hundred thousand (300,000), the resolution of a city**

1 must show that these services will be provided to the annexed
 2 territory within four (4) years after the effective date of the
 3 annexation and in the same manner as those services are provided
 4 to areas within the corporate boundaries regardless of similar
 5 topography, patterns of land use, or population density.

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

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

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

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

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

26 (i) Police and fire protection.

27 (ii) Street and road maintenance.

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

30 (C) ~~One (1) of the following opposes the annexation: The~~
 31 **following oppose the annexation:**

32 (i) ~~A majority of the owners of land in the territory proposed~~
 33 ~~to be annexed.~~

34 (ii) ~~The owners of more than seventy-five percent (75%) in~~
 35 ~~assessed valuation of the land in the territory proposed to be~~
 36 ~~annexed.~~

37 (i) **If the annexation is by a city in a county with a**
 38 **population of more than two hundred thousand (200,000)**

1 **but less than three hundred thousand (300,000), the**
 2 **number of owners required to sign a remonstrance**
 3 **petition under section 11(a)(1) of this chapter in the**
 4 **territory proposed to be annexed.**

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

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

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

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

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

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

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

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

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

6 (1) The county highway department.

7 (2) The county surveyor.

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

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

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

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

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

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

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

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

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

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

38 (1) File each annexation ordinance against which a remonstrance

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

1 ordinance has become effective under this chapter, indicate the
2 annexation upon the property taxation records maintained in the office
3 of the auditor.".

4 Delete pages 3 through 20.

5 Renumber all SECTIONS consecutively.

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

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

Senator Merritt, Chairperson