

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 114, 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 Delete everything after the enacting clause and insert the  
2 following:  
3 SECTION 1. IC 6-1.1-18.5-3, AS AMENDED BY P.L.224-2007,  
4 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2008]: Sec. 3. (a) Except as otherwise provided in this chapter  
6 and IC 6-3.5-8-12, a civil taxing unit that is treated as not being located  
7 in an adopting county under section 4 of this chapter may not impose  
8 an ad valorem property tax levy for an ensuing calendar year that  
9 exceeds the amount determined in the last STEP of the following  
10 STEPS:  
11 STEP ONE: Add the civil taxing unit's maximum permissible ad  
12 valorem property tax levy for the preceding calendar year to the  
13 part of the civil taxing unit's certified share, if any, that was used  
14 to reduce the civil taxing unit's ad valorem property tax levy  
15 under STEP EIGHT of subsection (b) for that preceding calendar  
16 year.  
17 STEP TWO: Multiply the amount determined in STEP ONE by  
18 the amount determined in the last STEP of section 2(b) of this  
19 chapter.  
20 STEP THREE: Determine the lesser of one and fifteen  
21 hundredths (1.15) or the quotient (rounded to the nearest  
22 ten-thousandth (0.0001)), of the assessed value of all taxable  
23 property subject to the civil taxing unit's ad valorem property tax  
24 levy for the ensuing calendar year, divided by the assessed value  
25 of all taxable property that is subject to the civil taxing unit's ad  
26 valorem property tax levy for the ensuing calendar year and that

1 is contained within the geographic area that was subject to the  
2 civil taxing unit's ad valorem property tax levy in the preceding  
3 calendar year.

4 STEP FOUR: Determine the greater of the amount determined  
5 in STEP THREE or one (1).

6 STEP FIVE: Multiply the amount determined in STEP TWO by  
7 the amount determined in STEP FOUR.

8 STEP SIX: Add the amount determined under STEP TWO to the  
9 amount determined under subsection (c).

10 STEP SEVEN: Determine the greater of the amount determined  
11 under STEP FIVE or the amount determined under STEP SIX.

12 (b) Except as otherwise provided in this chapter and IC 6-3.5-8-12,  
13 a civil taxing unit that is treated as being located in an adopting county  
14 under section 4 of this chapter may not impose an ad valorem property  
15 tax levy for an ensuing calendar year that exceeds the amount  
16 determined in the last STEP of the following STEPS:

17 STEP ONE: Add the civil taxing unit's maximum permissible ad  
18 valorem property tax levy for the preceding calendar year to the  
19 part of the civil taxing unit's certified share, if any, used to  
20 reduce the civil taxing unit's ad valorem property tax levy under  
21 STEP EIGHT of this subsection for that preceding calendar year.

22 STEP TWO: Multiply the amount determined in STEP ONE by  
23 the amount determined in the last STEP of section 2(b) of this  
24 chapter.

25 STEP THREE: Determine the lesser of one and fifteen  
26 hundredths (1.15) or the quotient of the assessed value of all  
27 taxable property subject to the civil taxing unit's ad valorem  
28 property tax levy for the ensuing calendar year divided by the  
29 assessed value of all taxable property that is subject to the civil  
30 taxing unit's ad valorem property tax levy for the ensuing  
31 calendar year and that is contained within the geographic area  
32 that was subject to the civil taxing unit's ad valorem property tax  
33 levy in the preceding calendar year.

34 STEP FOUR: Determine the greater of the amount determined  
35 in STEP THREE or one (1).

36 STEP FIVE: Multiply the amount determined in STEP TWO by  
37 the amount determined in STEP FOUR.

38 STEP SIX: Add the amount determined under STEP TWO to the  
39 amount determined under subsection (c).

40 STEP SEVEN: Determine the greater of the amount determined  
41 under STEP FIVE or the amount determined under STEP SIX.

42 STEP EIGHT: Subtract the amount determined under STEP  
43 FIVE of subsection (e) from the amount determined under STEP  
44 SEVEN of this subsection.

45 (c) **The amount to be entered under STEP SIX of subsection**  
46 **(a) or STEP SIX of subsection (b), as applicable, equals the sum of**  
47 **the following:**

48 (1) If a civil taxing unit in the immediately preceding calendar  
49 year provided an area outside its boundaries with services on a  
50 contractual basis and in the ensuing calendar year that area has

1           been annexed by the civil taxing unit, ~~the amount to be entered~~  
 2           under STEP SIX of subsection (a) or STEP SIX of subsection  
 3           (b); as the case may be, equals the amount paid by the annexed  
 4           area during the immediately preceding calendar year for services  
 5           that the civil taxing unit must provide to that area during the  
 6           ensuing calendar year as a result of the annexation.

7           **(2) If the civil taxing unit has had an excessive levy appeal**  
 8           **approved under section 13(1) of this chapter for the ensuing**  
 9           **calendar year, an amount determined by the civil taxing unit**  
 10          **for the ensuing calendar year that does not exceed the**  
 11          **amount of that excessive levy.**

12          In all other cases, the amount to be entered under STEP SIX of  
 13          subsection (a) or STEP SIX of subsection (b), as the case may be,  
 14          equals zero (0).

15          (d) This subsection applies only to civil taxing units located in a  
 16          county having a county adjusted gross income tax rate for resident  
 17          county taxpayers (as defined in IC 6-3.5-1.1-1) of one percent (1%) as  
 18          of January 1 of the ensuing calendar year. For each civil taxing unit, the  
 19          amount to be added to the amount determined in subsection (e), STEP  
 20          FOUR, is determined using the following formula:

21               STEP ONE: Multiply the civil taxing unit's maximum  
 22               permissible ad valorem property tax levy for the preceding  
 23               calendar year by two percent (2%).

24               STEP TWO: For the determination year, the amount to be used  
 25               as the STEP TWO amount is the amount determined in  
 26               subsection (f) for the civil taxing unit. For each year following  
 27               the determination year the STEP TWO amount is the lesser of:

28                       (A) the amount determined in STEP ONE; or

29                       (B) the amount determined in subsection (f) for the civil  
 30                       taxing unit.

31               STEP THREE: Determine the greater of:

32                       (A) zero (0); or

33                       (B) the civil taxing unit's certified share for the ensuing  
 34                       calendar year minus the greater of:

35                               (i) the civil taxing unit's certified share for the calendar  
 36                               year that immediately precedes the ensuing calendar  
 37                               year; or

38                               (ii) the civil taxing unit's base year certified share.

39               STEP FOUR: Determine the greater of:

40                       (A) zero (0); or

41                       (B) the amount determined in STEP TWO minus the  
 42                       amount determined in STEP THREE.

43          Add the amount determined in STEP FOUR to the amount determined  
 44          in subsection (e), STEP THREE, as provided in subsection (e), STEP  
 45          FOUR.

46          (e) For each civil taxing unit, the amount to be subtracted under  
 47          subsection (b), STEP EIGHT, is determined using the following  
 48          formula:

49               STEP ONE: Determine the lesser of the civil taxing unit's base  
 50               year certified share for the ensuing calendar year, as determined

1 under section 5 of this chapter, or the civil taxing unit's certified  
2 share for the ensuing calendar year.

3 STEP TWO: Determine the greater of:

- 4 (A) zero (0); or
- 5 (B) the remainder of:
  - 6 (i) the amount of federal revenue sharing money that
  - 7 was received by the civil taxing unit in 1985; minus
  - 8 (ii) the amount of federal revenue sharing money that
  - 9 will be received by the civil taxing unit in the year
  - 10 preceding the ensuing calendar year.

11 STEP THREE: Determine the lesser of:

- 12 (A) the amount determined in STEP TWO; or
- 13 (B) the amount determined in subsection (f) for the civil
- 14 taxing unit.

15 STEP FOUR: Add the amount determined in subsection (d),  
16 STEP FOUR, to the amount determined in STEP THREE.

17 STEP FIVE: Subtract the amount determined in STEP FOUR  
18 from the amount determined in STEP ONE.

19 (f) As used in this section, a taxing unit's "determination year"  
20 means the latest of:

- 21 (1) calendar year 1987, if the taxing unit is treated as being
- 22 located in an adopting county for calendar year 1987 under
- 23 section 4 of this chapter;
- 24 (2) the taxing unit's base year, as defined in section 5 of this
- 25 chapter, if the taxing unit is treated as not being located in an
- 26 adopting county for calendar year 1987 under section 4 of this
- 27 chapter; or
- 28 (3) the ensuing calendar year following the first year that the
- 29 taxing unit is located in a county that has a county adjusted gross
- 30 income tax rate of more than one-half percent (0.5%) on July 1
- 31 of that year.

32 The amount to be used in subsections (d) and (e) for a taxing unit  
33 depends upon the taxing unit's certified share for the ensuing calendar  
34 year, the taxing unit's determination year, and the county adjusted gross  
35 income tax rate for resident county taxpayers (as defined in  
36 IC 6-3.5-1.1-1) that is in effect in the taxing unit's county on July 1 of  
37 the year preceding the ensuing calendar year. For the determination  
38 year and the ensuing calendar years following the taxing unit's  
39 determination year, the amount is the taxing unit's certified share for  
40 the ensuing calendar year multiplied by the appropriate factor  
41 prescribed in the following table:

42		COUNTIES WITH A TAX RATE OF 1/2%
43		Subsection (e)
44	Year	Factor
45	For the determination year and each ensuing	
46	calendar year following the determination year . . . . .	0
47		COUNTIES WITH A TAX RATE OF 3/4%
48		Subsection (e)
49	Year	Factor
50	For the determination year and each ensuing	

1	calendar year following the determination year . . . . .	1/2
2	COUNTIES WITH A TAX RATE OF 1.0%	
3		Subsection (d)    Subsection (e)
4	Year	Factor              Factor
5	For the determination year . . . . .	1/6 . . . . . 1/3
6	For the ensuing calendar year	
7	following the determination year . . . . .	1/4 . . . . . 1/3
8	For the ensuing calendar year	
9	following the determination year	
10	by two (2) years . . . . .	1/3 . . . . . 1/3

11        (g) This subsection applies only to property taxes first due and  
 12 payable after December 31, 2007. This subsection applies only to a  
 13 civil taxing unit that is located in a county for which a county adjusted  
 14 gross income tax rate is first imposed or is increased in a particular  
 15 year under IC 6-3.5-1.1-24 or a county option income tax rate is first  
 16 imposed or is increased in a particular year under IC 6-3.5-6-30.  
 17 Notwithstanding any provision in this section or any other section of  
 18 this chapter and except as provided in subsection (h), the maximum  
 19 permissible ad valorem property tax levy calculated under this section  
 20 for the ensuing calendar year for a civil taxing unit subject to this  
 21 section is equal to the civil taxing unit's maximum permissible ad  
 22 valorem property tax levy for the current calendar year.

23        (h) This subsection applies only to property taxes first due and  
 24 payable after December 31, 2007. In the case of a civil taxing unit that:

25            (1) is partially located in a county for which a county adjusted  
 26 gross income tax rate is first imposed or is increased in a  
 27 particular year under IC 6-3.5-1.1-24 or a county option income  
 28 tax rate is first imposed or is increased in a particular year under  
 29 IC 6-3.5-6-30; and

30            (2) is partially located in a county that is not described in  
 31 subdivision (1);

32 the department of local government finance shall, notwithstanding  
 33 subsection (g), adjust the portion of the civil taxing unit's maximum  
 34 permissible ad valorem property tax levy that is attributable (as  
 35 determined by the department of local government finance) to the  
 36 county or counties described in subdivision (2). The department of  
 37 local government finance shall adjust this portion of the civil taxing  
 38 unit's maximum permissible ad valorem property tax levy so that,  
 39 notwithstanding subsection (g), this portion is allowed to increase as  
 40 otherwise provided in this section. If the department of local  
 41 government finance increases the civil taxing unit's maximum  
 42 permissible ad valorem property tax levy under this subsection, any  
 43 additional property taxes imposed by the civil taxing unit under the  
 44 adjustment shall be paid only by the taxpayers in the county or counties  
 45 described in subdivision (2).

46        SECTION 2. IC 6-1.1-18.5-13, AS AMENDED BY P.L.196-2007,  
 47 SECTION 2, AND AS AMENDED BY P.L.224-2007, SECTION 25,  
 48 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
 49 [EFFECTIVE JULY 1, 2008]: Sec. 13. With respect to an appeal filed  
 50 under section 12 of this chapter, the local government tax control board

1 (before January 1, 2009) or the county board of tax and capital  
 2 projects review (after December 31, 2008) may recommend that a civil  
 3 taxing unit receive any one (1) or more of the following types of relief:

4 (1) ~~A levy increase may not be granted under this subdivision for~~  
 5 ~~property taxes first due and payable after December 31, 2009.~~

6 Permission to the civil taxing unit to increase its levy in excess of  
 7 the limitations established under section 3 of this chapter, if in the  
 8 judgment of the local government tax control board the increase  
 9 is reasonably necessary due to increased costs of the civil taxing  
 10 unit resulting from annexation, consolidation, or other extensions  
 11 of governmental services by the civil taxing unit to additional  
 12 geographic areas or persons. **With respect to annexation,**  
 13 **consolidation, or other extensions of governmental services in**  
 14 **a calendar year, if those increased costs are incurred by the**  
 15 **civil taxing unit in that calendar year and more than one (1)**  
 16 **immediately succeeding calendar year, the unit may appeal**  
 17 **under section 12 of this chapter for permission to increase its**  
 18 **levy under this subdivision based on those increased costs in**  
 19 **any of the following:**

20 (A) **The first calendar year in which those costs are**  
 21 **incurred.**

22 (B) **One (1) or more of the immediately succeeding four (4)**  
 23 **calendar years.**

24 (2) ~~A levy increase may not be granted under this subdivision for~~  
 25 ~~property taxes first due and payable after December 31, 2009.~~

26 Permission to the civil taxing unit to increase its levy in excess of  
 27 the limitations established under section 3 of this chapter, if the  
 28 local government tax control board finds that the civil taxing unit  
 29 needs the increase to meet the civil taxing unit's share of the costs  
 30 of operating a court established by statute enacted after December  
 31 31, 1973. Before recommending such an increase, the local  
 32 government tax control board shall consider all other revenues  
 33 available to the civil taxing unit that could be applied for that  
 34 purpose. The maximum aggregate levy increases that the local  
 35 government tax control board may recommend for a particular  
 36 court equals the civil taxing unit's estimate of the unit's share of  
 37 the costs of operating a court for the first full calendar year in  
 38 which it is in existence. For purposes of this subdivision, costs of  
 39 operating a court include:

40 (A) the cost of personal services (including fringe benefits);

41 (B) the cost of supplies; and

42 (C) any other cost directly related to the operation of the court.

43 (3) Permission to the civil taxing unit to increase its levy in excess  
 44 of the limitations established under section 3 of this chapter, if the  
 45 local government tax control board finds that the quotient  
 46 determined under STEP SIX of the following formula is equal to  
 47 or greater than one and two-hundredths (1.02):

48 STEP ONE: Determine the three (3) calendar years that most  
 49 immediately precede the ensuing calendar year and in which  
 50 a statewide general reassessment of real property *or the initial*

1            *annual adjustment of the assessed value of real property*  
 2            *under IC 6-1.1-4-4.5 does not first become effective.*  
 3            STEP TWO: Compute separately, for each of the calendar  
 4            years determined in STEP ONE, the quotient (rounded to the  
 5            nearest ten-thousandth (0.0001)) of the sum of the civil taxing  
 6            unit's total assessed value of all taxable property and the total  
 7            assessed value of property tax deductions in the unit under  
 8            IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar  
 9            year, divided by the sum of the civil taxing unit's total assessed  
 10           value of all taxable property and the total assessed value of  
 11           property tax deductions in the unit under IC 6-1.1-12-41 or  
 12           IC 6-1.1-12-42 in the calendar year immediately preceding the  
 13           particular calendar year.  
 14           STEP THREE: Divide the sum of the three (3) quotients  
 15           computed in STEP TWO by three (3).  
 16           STEP FOUR: Compute separately, for each of the calendar  
 17           years determined in STEP ONE, the quotient (rounded to the  
 18           nearest ten-thousandth (0.0001)) of the sum of the total  
 19           assessed value of all taxable property in all counties and the  
 20           total assessed value of property tax deductions in all counties  
 21           under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular  
 22           calendar year, divided by the sum of the total assessed value  
 23           of all taxable property in all counties and the total assessed  
 24           value of property tax deductions in all counties under  
 25           IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year  
 26           immediately preceding the particular calendar year.  
 27           STEP FIVE: Divide the sum of the three (3) quotients  
 28           computed in STEP FOUR by three (3).  
 29           STEP SIX: Divide the STEP THREE amount by the STEP  
 30           FIVE amount.  
 31           The civil taxing unit may increase its levy by a percentage not  
 32           greater than the percentage by which the STEP THREE amount  
 33           exceeds the percentage by which the civil taxing unit may  
 34           increase its levy under section 3 of this chapter based on the  
 35           assessed value growth quotient determined under section 2 of this  
 36           chapter.  
 37           *(4) A levy increase may not be granted under this subdivision for*  
 38           *property taxes first due and payable after December 31, 2009.*  
 39           Permission to the civil taxing unit to increase its levy in excess of  
 40           the limitations established under section 3 of this chapter, if the  
 41           local government tax control board finds that the civil taxing unit  
 42           needs the increase to pay the costs of furnishing fire protection for  
 43           the civil taxing unit through a volunteer fire department. For  
 44           purposes of determining a township's need for an increased levy,  
 45           the local government tax control board shall not consider the  
 46           amount of money borrowed under IC 36-6-6-14 during the  
 47           immediately preceding calendar year. However, any increase in  
 48           the amount of the civil taxing unit's levy recommended by the  
 49           local government tax control board under this subdivision for the  
 50           ensuing calendar year may not exceed the lesser of:

- 1 (A) ten thousand dollars (\$10,000); or  
 2 (B) twenty percent (20%) of:  
 3 (i) the amount authorized for operating expenses of a  
 4 volunteer fire department in the budget of the civil taxing  
 5 unit for the immediately preceding calendar year; plus  
 6 (ii) the amount of any additional appropriations authorized  
 7 during that calendar year for the civil taxing unit's use in  
 8 paying operating expenses of a volunteer fire department  
 9 under this chapter; minus  
 10 (iii) the amount of money borrowed under IC 36-6-6-14  
 11 during that calendar year for the civil taxing unit's use in  
 12 paying operating expenses of a volunteer fire department.
- 13 (5) *A levy increase may not be granted under this subdivision for*  
 14 *property taxes first due and payable after December 31, 2009.*  
 15 Permission to a civil taxing unit to increase its levy in excess of  
 16 the limitations established under section 3 of this chapter in order  
 17 to raise revenues for pension payments and contributions the civil  
 18 taxing unit is required to make under IC 36-8. The maximum  
 19 increase in a civil taxing unit's levy that may be recommended  
 20 under this subdivision for an ensuing calendar year equals the  
 21 amount, if any, by which the pension payments and contributions  
 22 the civil taxing unit is required to make under IC 36-8 during the  
 23 ensuing calendar year exceeds the product of one and one-tenth  
 24 (1.1) multiplied by the pension payments and contributions made  
 25 by the civil taxing unit under IC 36-8 during the calendar year that  
 26 immediately precedes the ensuing calendar year. For purposes of  
 27 this subdivision, "pension payments and contributions made by a  
 28 civil taxing unit" does not include that part of the payments or  
 29 contributions that are funded by distributions made to a civil  
 30 taxing unit by the state.
- 31 (6) *A levy increase may not be granted under this subdivision for*  
 32 *property taxes first due and payable after December 31, 2009.*  
 33 Permission to increase its levy in excess of the limitations  
 34 established under section 3 of this chapter if the local government  
 35 tax control board finds that:  
 36 (A) the township's township assistance ad valorem property  
 37 tax rate is less than one and sixty-seven hundredths cents  
 38 (\$0.0167) per one hundred dollars (\$100) of assessed  
 39 valuation; and  
 40 (B) the township needs the increase to meet the costs of  
 41 providing township assistance under IC 12-20 and IC 12-30-4.  
 42 The maximum increase that the board may recommend for a  
 43 township is the levy that would result from an increase in the  
 44 township's township assistance ad valorem property tax rate of  
 45 one and sixty-seven hundredths cents (\$0.0167) per one hundred  
 46 dollars (\$100) of assessed valuation minus the township's ad  
 47 valorem property tax rate per one hundred dollars (\$100) of  
 48 assessed valuation before the increase.
- 49 (7) *A levy increase may not be granted under this subdivision for*  
 50 *property taxes first due and payable after December 31, 2009.*

1 Permission to a civil taxing unit to increase its levy in excess of  
2 the limitations established under section 3 of this chapter if:

3 (A) the increase has been approved by the legislative body of  
4 the municipality with the largest population where the civil  
5 taxing unit provides public transportation services; and

6 (B) the local government tax control board finds that the civil  
7 taxing unit needs the increase to provide adequate public  
8 transportation services.

9 The local government tax control board shall consider tax rates  
10 and levies in civil taxing units of comparable population, and the  
11 effect (if any) of a loss of federal or other funds to the civil taxing  
12 unit that might have been used for public transportation purposes.  
13 However, the increase that the board may recommend under this  
14 subdivision for a civil taxing unit may not exceed the revenue that  
15 would be raised by the civil taxing unit based on a property tax  
16 rate of one cent (\$0.01) per one hundred dollars (\$100) of  
17 assessed valuation.

18 *(8) A levy increase may not be granted under this subdivision for*  
19 *property taxes first due and payable after December 31, 2009.*

20 Permission to a civil taxing unit to increase the unit's levy in  
21 excess of the limitations established under section 3 of this  
22 chapter if the local government tax control board finds that:

23 (A) the civil taxing unit is:

24 (i) a county having a population of more than one hundred  
25 forty-eight thousand (148,000) but less than one hundred  
26 seventy thousand (170,000);

27 (ii) a city having a population of more than fifty-five  
28 thousand (55,000) but less than fifty-nine thousand (59,000);

29 (iii) a city having a population of more than twenty-eight  
30 thousand seven hundred (28,700) but less than twenty-nine  
31 thousand (29,000);

32 (iv) a city having a population of more than fifteen thousand  
33 four hundred (15,400) but less than sixteen thousand six  
34 hundred (16,600); or

35 (v) a city having a population of more than seven thousand  
36 (7,000) but less than seven thousand three hundred (7,300);  
37 and

38 (B) the increase is necessary to provide funding to undertake  
39 removal (as defined in IC 13-11-2-187) and remedial action  
40 (as defined in IC 13-11-2-185) relating to hazardous  
41 substances (as defined in IC 13-11-2-98) in solid waste  
42 disposal facilities or industrial sites in the civil taxing unit that  
43 have become a menace to the public health and welfare.

44 The maximum increase that the local government tax control  
45 board may recommend for such a civil taxing unit is the levy that  
46 would result from a property tax rate of six and sixty-seven  
47 hundredths cents (\$0.0667) for each one hundred dollars (\$100)  
48 of assessed valuation. For purposes of computing the ad valorem  
49 property tax levy limit imposed on a civil taxing unit under  
50 section 3 of this chapter, the civil taxing unit's ad valorem

1 property tax levy for a particular year does not include that part of  
 2 the levy imposed under this subdivision. In addition, a property  
 3 tax increase permitted under this subdivision may be imposed for  
 4 only two (2) calendar years.

5 *(9) A levy increase may not be granted under this subdivision for*  
 6 *property taxes first due and payable after December 31, 2009.*

7 Permission for a county:

8 (A) having a population of more than eighty thousand (80,000)  
 9 but less than ninety thousand (90,000) to increase the county's  
 10 levy in excess of the limitations established under section 3 of  
 11 this chapter, if the local government tax control board finds  
 12 that the county needs the increase to meet the county's share of  
 13 the costs of operating a jail or juvenile detention center,  
 14 including expansion of the facility, if the jail or juvenile  
 15 detention center is opened after December 31, 1991;

16 (B) that operates a county jail or juvenile detention center that  
 17 is subject to an order that:

18 (i) was issued by a federal district court; and

19 (ii) has not been terminated;

20 (C) that operates a county jail that fails to meet:

21 (i) American Correctional Association Jail Construction  
 22 Standards; and

23 (ii) Indiana jail operation standards adopted by the  
 24 department of correction; or

25 (D) that operates a juvenile detention center that fails to meet  
 26 standards equivalent to the standards described in clause (C)  
 27 for the operation of juvenile detention centers.

28 Before recommending an increase, the local government tax  
 29 control board shall consider all other revenues available to the  
 30 county that could be applied for that purpose. An appeal for  
 31 operating funds for a jail or a juvenile detention center shall be  
 32 considered individually, if a jail and juvenile detention center are  
 33 both opened in one (1) county. The maximum aggregate levy  
 34 increases that the local government tax control board may  
 35 recommend for a county equals the county's share of the costs of  
 36 operating the jail or a juvenile detention center for the first full  
 37 calendar year in which the jail or juvenile detention center is in  
 38 operation.

39 *(10) A levy increase may not be granted under this subdivision*  
 40 *for property taxes first due and payable after December 31, 2009.*

41 Permission for a township to increase its levy in excess of the  
 42 limitations established under section 3 of this chapter, if the local  
 43 government tax control board finds that the township needs the  
 44 increase so that the property tax rate to pay the costs of furnishing  
 45 fire protection for a township, or a portion of a township, enables  
 46 the township to pay a fair and reasonable amount under a contract  
 47 with the municipality that is furnishing the fire protection.  
 48 However, for the first time an appeal is granted the resulting rate  
 49 increase may not exceed fifty percent (50%) of the difference  
 50 between the rate imposed for fire protection within the

1 municipality that is providing the fire protection to the township  
 2 and the township's rate. A township is required to appeal a second  
 3 time for an increase under this subdivision if the township wants  
 4 to further increase its rate. However, a township's rate may be  
 5 increased to equal but may not exceed the rate that is used by the  
 6 municipality. More than one (1) township served by the same  
 7 municipality may use this appeal.

8 *(11) A levy increase may not be granted under this subdivision*  
 9 *for property taxes first due and payable after December 31, 2009.*

10 Permission for a township to increase its levy in excess of the  
 11 limitations established under section 3 of this chapter, if the local  
 12 government tax control board finds that the township has been  
 13 required, for the three (3) consecutive years preceding the year for  
 14 which the appeal under this subdivision is to become effective, to  
 15 borrow funds under IC 36-6-6-14 to furnish fire protection for the  
 16 township or a part of the township. However, the maximum  
 17 increase in a township's levy that may be allowed under this  
 18 subdivision is the least of the amounts borrowed under  
 19 IC 36-6-6-14 during the preceding three (3) calendar years. A  
 20 township may elect to phase in an approved increase in its levy  
 21 under this subdivision over a period not to exceed three (3) years.  
 22 A particular township may appeal to increase its levy under this  
 23 section not more frequently than every fourth calendar year.

24 *(12) A levy increase may not be granted under this subdivision*  
 25 *for property taxes first due and payable after December 31, 2009.*

26 Permission to a city having a population of more than twenty-nine  
 27 thousand (29,000) but less than thirty-one thousand (31,000) to  
 28 increase its levy in excess of the limitations established under  
 29 section 3 of this chapter if:

30 (A) an appeal was granted to the city under this section to  
 31 reallocate property tax replacement credits under IC 6-3.5-1.1  
 32 in 1998, 1999, and 2000; and

33 (B) the increase has been approved by the legislative body of  
 34 the city, and the legislative body of the city has by resolution  
 35 determined that the increase is necessary to pay normal  
 36 operating expenses.

37 The maximum amount of the increase is equal to the amount of  
 38 property tax replacement credits under IC 6-3.5-1.1 that the city  
 39 petitioned under this section to have reallocated in 2001 for a  
 40 purpose other than property tax relief.

41 *(13) A levy increase may be granted under this subdivision only*  
 42 *for property taxes first due and payable after December 31, 2009.*

43 *Permission to a civil taxing unit to increase its levy in excess of*  
 44 *the limitations established under section 3 of this chapter if the*  
 45 *civil taxing unit cannot carry out its governmental functions for*  
 46 *an ensuing calendar year under the levy limitations imposed by*  
 47 *section 3 of this chapter.*

48 SECTION 3. IC 13-18-15-2 IS AMENDED TO READ AS  
 49 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The persons  
 50 involved shall negotiate the terms for connection and service under this

1 chapter.

2 (b) If service is ordered under this chapter, a receiver of that service  
3 that is located in an unincorporated area may grant a waiver to a  
4 municipality providing the service. A waiver under this section:

5 (1) must waive the receiver's right of remonstrance against  
6 annexation of the areas in which the service is to be provided; and

7 (2) may be one (1) of the terms for connection and service  
8 described in subsection (a).

9 ~~(c) The waiver, if granted:~~

10 ~~(1) shall be noted on the deed of each property affected and~~  
11 ~~recorded as provided by law; and~~

12 ~~(2) is considered a covenant running with the land:~~

13 **(c) Notwithstanding any other law, a waiver executed after June**  
14 **30, 2008, by a receiver of the service is not:**

15 **(1) a covenant that runs with the land; or**

16 **(2) binding on the receiver's successors in title to the real**  
17 **property.**

18 **(d) A waiver expires three (3) years after the date the waiver is**  
19 **executed.**

20 SECTION 4. IC 36-4-3-1.2 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2008]: **Sec. 1.2. As used in this chapter, "department" refers to**  
23 **the department of local government finance.**

24 SECTION 5. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2008]: **Sec. 1.7. (a) A municipality may initiate an annexation of**  
27 **territory as follows:**

28 **(1) If the municipality is annexing territory described in**  
29 **section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter, by**  
30 **adopting an annexation ordinance after notice and a public**  
31 **hearing under section 2.1 of this chapter.**

32 **(2) If all property owners in the territory provide written**  
33 **consent to the annexation, by adopting an annexation**  
34 **ordinance after:**

35 **(A) receiving approval of the fiscal plan under section 6.5**  
36 **of this chapter; and**

37 **(B) notice under section 2.2 of this chapter and a public**  
38 **hearing under section 2.1 of this chapter.**

39 **(b) Landowners may initiate an annexation of territory by filing**  
40 **a petition under section 5 or 5.1 of this chapter.**

41 SECTION 6. IC 36-4-3-1.8 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.8. A municipality may not**  
43 **annex a lake or pond of at least twenty (20) acres unless the entire**  
44 **boundary of the municipality surrounds the lake or pond.**

45 SECTION 7. IC 36-4-3-2.1 IS AMENDED TO READ AS  
46 FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.1. (a) This section**  
47 **does not apply to an annexation under section 5.1 of this chapter.**

48 **(b) A municipality may adopt an ordinance under this chapter only**  
49 **after the legislative body has held a public hearing concerning the**  
50

1 proposed annexation. The municipality shall hold the public hearing  
 2 not earlier than sixty (60) days after the date the ordinance is  
 3 introduced. All interested parties must have the opportunity to testify  
 4 as to the proposed annexation. Except as provided in subsection (d),  
 5 notice of the hearing shall be:

- 6 (1) published in accordance with IC 5-3-1 except that the notice  
 7 shall be published at least sixty (60) days before the hearing; and
- 8 (2) mailed as set forth in section 2.2 of this chapter, if section 2.2  
 9 of this chapter applies to the annexation.

10 (c) A municipality may adopt an ordinance under this chapter not  
 11 earlier than thirty (30) days or not later than sixty (60) days after the  
 12 legislative body has held the public hearing under subsection (b).

13 (d) This subsection applies to an annexation ~~under section 3 or 4~~  
 14 **described in section 1.7(a)(2)** of this chapter in which all property  
 15 owners within the area to be annexed provide written consent to the  
 16 annexation. Notice of the hearing shall be:

- 17 (1) published one (1) time at least twenty (20) days before the  
 18 hearing in accordance with IC 5-3-1; and
- 19 (2) mailed as set forth in section 2.2 of this chapter.

20 SECTION 8. IC 36-4-3-2.2 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.2. **(a) This section**  
 22 **applies to an annexation described in section 1.7(a)(2) of this**  
 23 **chapter or under section 5 of this chapter.**

24 ~~(a)~~ **(b)** This section does not apply to an annexation under section  
 25 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation  
 26 described in section 5.1 of this chapter.

27 ~~(b)~~ **(c)** Before a municipality may annex territory, the municipality  
 28 shall provide written notice of the hearing required under section 2.1  
 29 of this chapter. Except as provided in subsection ~~(c)~~; **(f)**, the notice  
 30 must be sent by certified mail at least sixty (60) days before the date of  
 31 the hearing to each owner of real property, as shown on the county  
 32 auditor's current tax list, whose real property is located within the  
 33 territory proposed to be annexed.

34 ~~(c)~~ **(d)** The notice required by this section must include the  
 35 following:

- 36 (1) A legal description of the real property proposed to be  
 37 annexed.
- 38 (2) The date, time, location, and subject of the hearing.
- 39 (3) A map showing the current municipal boundaries and the  
 40 proposed municipal boundaries.
- 41 (4) Current zoning classifications for the area proposed to be  
 42 annexed and any proposed zoning changes for the area proposed  
 43 to be annexed.
- 44 (5) A detailed summary of the fiscal plan described in section 13  
 45 of this chapter.
- 46 (6) The location where the public may inspect and copy the fiscal  
 47 plan.
- 48 (7) A statement that the municipality will provide a copy of the  
 49 fiscal plan ~~after the fiscal plan is adopted~~ immediately to any  
 50 landowner in the annexed territory who requests a copy **at no**

1 **charge.**

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

4 ~~(d)~~ (e) If the municipality complies with this section, the notice is  
5 not invalidated if the owner does not receive the notice.

6 ~~(e)~~ (f) This subsection applies to an annexation ~~under section 3 or~~  
7 **4 described in section 1.7(a)(2)** of this chapter in which all property  
8 owners within the area to be annexed provide written consent to the  
9 annexation. The written notice described in this section must be sent by  
10 certified mail not later than twenty (20) days before the date of the  
11 hearing to each owner of real property, as shown on the county  
12 auditor's current tax list, whose real property is located within the  
13 territory proposed to be annexed.

14 SECTION 9. IC 36-4-3-3 IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) **Subject to subsection (b),**  
16 the legislative body of a municipality may, by an ordinance defining the  
17 corporate boundaries of the municipality, annex territory that is  
18 contiguous to the municipality. ~~subject to subsection (b):~~

19 (b) If territory that was not contiguous (under section 1.5 of this  
20 chapter) was annexed in proceedings begun before May 1, 1981, an  
21 ordinance adopted after April 30, 1981, may not annex additional  
22 territory that is contiguous when the contiguity is based on the  
23 additional territory's boundaries with the previously annexed territory.

24 (c) Subsection (b) does not apply when the previously annexed  
25 territory has been used as a part of the contiguous boundary of separate  
26 parcels of land successfully annexed to the municipality before May 1,  
27 1981.

28 (d) This subsection does not apply to a town that has abolished town  
29 legislative body districts under IC 36-5-2-4.1. An ordinance described  
30 by subsection (a) must assign the territory annexed by the ordinance to  
31 at least one (1) municipal legislative body district.

32 SECTION 10. IC 36-4-3-3.1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. (a) **This section**  
34 **applies only to an annexation described in section 1.7(a)(2) of this**  
35 **chapter or under section 5 or 5.1 of this chapter.**

36 ~~(a)~~ (b) This section does not apply to an annexation under section  
37 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

38 ~~(b)~~ (c) A municipality shall develop and adopt a written fiscal plan  
39 and establish a definite policy by resolution of the legislative body that  
40 meets the requirements set forth in section 13 of this chapter. **The**  
41 **department must approve the fiscal plan under section 6.5 of this**  
42 **chapter before the municipality may adopt an annexation**  
43 **ordinance.**

44 ~~(c)~~ Except as provided in subsection (d), the municipality shall  
45 establish and adopt the written fiscal plan, before mailing the  
46 notification to landowners in the territory proposed to be annexed  
47 under section 2.2 of this chapter.

48 ~~(d)~~ In an annexation under section 5 or 5.1 of this chapter, the  
49 municipality shall establish and adopt the written fiscal plan before  
50 adopting the annexation ordinance.

1           **(d) A municipality may not amend the fiscal plan after the**  
 2 **department approves the fiscal plan under section 6.5 of this**  
 3 **chapter.**

4           SECTION 11. IC 36-4-3-4.1, AS AMENDED BY P.L.71-2006,  
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2008]: Sec. 4.1. (a) The legislative body of a municipality  
 7 may, by ordinance annex territory that:

8           (1) is contiguous to the municipality;

9           (2) in the case of a town having a population of more than:

10           (A) fifteen thousand (15,000); or

11           (B) five thousand (5,000) but less than six thousand three  
 12 hundred (6,300);

13           located in a county having a population of more than one hundred  
 14 thousand (100,000) but less than one hundred five thousand  
 15 (105,000), has its entire area within the township within which the  
 16 town is primarily located; and

17           (3) is owned by a property owner who consents to the annexation.

18           (b) Territory annexed under this section is exempt from all property  
 19 tax liability under IC 6-1.1 for municipal purposes for all portions of  
 20 the annexed territory that are classified for zoning purposes as  
 21 agricultural and remain exempt from the property tax liability while the  
 22 property's zoning classification remains agricultural. However, if the  
 23 annexation ordinance annexing the territory is adopted after June 30,  
 24 2006, the property tax liability under IC 6-1.1 for municipal purposes  
 25 may be exempted for a period of not more than ten (10) years.

26           (c) There may not be a change in the zoning classification of  
 27 territory annexed under this section without the consent of the owner  
 28 of the annexed territory.

29           (d) Territory annexed under this section may not be considered a  
 30 part of the municipality for purposes of annexing additional territory  
 31 under section ~~3~~ **or 4 1.7(a)** of this chapter. However, territory annexed  
 32 under this section shall be considered a part of the municipality for  
 33 purposes of annexing additional territory under section 5 or 5.1 of this  
 34 chapter.

35           SECTION 12. IC 36-4-3-5 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) If the owners of  
 37 land located outside of but contiguous to a municipality want to have  
 38 territory containing that land annexed to the municipality, they may file  
 39 with the legislative body of the municipality a petition:

40           (1) signed by at least:

41           (A) fifty-one percent (51%) of the owners of land in the  
 42 territory sought to be annexed; or

43           (B) the owners of seventy-five percent (75%) of the total  
 44 assessed value of the land for property tax purposes; and

45           (2) requesting an ordinance annexing the area described in the  
 46 petition.

47           (b) The petition circulated by the landowners must include on each  
 48 page where signatures are affixed a heading that is substantially similar  
 49 to the following:

50           "PETITION FOR ANNEXATION INTO THE (insert whether city

1 or town) OF (insert name of city or town).".

2 (c) ~~Except as provided in section 5.1 of this chapter,~~ If the  
3 legislative body fails to pass the ordinance within **the later of** one  
4 hundred fifty (150) days after the date of filing of a petition under  
5 subsection (a) **or the disposition of a petition for approval of the**  
6 **annexation fiscal plan under section 6.5 of this chapter,** the  
7 petitioners may file a duplicate copy of the petition in the circuit or  
8 superior court of a county in which the territory is located, and shall  
9 include a written statement of why the annexation should take place.  
10 Notice of the proceedings, in the form of a summons, shall be served  
11 on the municipality named in the petition. The municipality is the  
12 defendant in the cause and shall appear and answer.

13 (d) The court shall hear and determine the petition without a jury,  
14 and shall order the proposed annexation to take place only if the  
15 evidence introduced by the parties establishes that:

- 16 (1) essential municipal services and facilities are not available to  
17 the residents of the territory sought to be annexed;  
18 (2) the municipality is physically and financially able to provide  
19 municipal services to the territory sought to be annexed;  
20 (3) the population density of the territory sought to be annexed is  
21 at least three (3) persons per acre; and  
22 (4) the territory sought to be annexed is contiguous to the  
23 municipality.

24 If the evidence does not establish all four (4) of the preceding factors,  
25 the court shall deny the petition and dismiss the proceeding.

26 (e) This subsection does not apply to a town that has abolished town  
27 legislative body districts under IC 36-5-2-4.1. An ordinance adopted  
28 under this section must assign the territory annexed by the ordinance  
29 to at least one (1) municipal legislative body district.

30 SECTION 13. IC 36-4-3-6.5 IS ADDED TO THE INDIANA CODE  
31 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
32 1, 2008]: **Sec. 6.5. (a) Before a municipality adopts an annexation**  
33 **ordinance, the municipality must file a certified petition with the**  
34 **department for approval of the municipality's annexation fiscal**  
35 **plan. The municipality shall submit the following with the certified**  
36 **petition:**

- 37 (1) **The proposed annexation ordinance.**  
38 (2) **The written fiscal plan.**  
39 (3) **If the petitioning municipality is a city, the name and**  
40 **mailing address of the mayor.**  
41 (4) **If the petitioning municipality is a town, the name and**  
42 **mailing address of the president of the town council.**  
43 (5) **The name and address of each owner of real property, as**  
44 **shown on the county auditor's current tax list, whose real**  
45 **property is located within the territory proposed to be**  
46 **annexed.**  
47 (6) **Any other information considered necessary by the**  
48 **department.**

49 (b) **Upon receipt of a certified petition, the department shall fix**  
50 **a date, time, and place for a hearing on the matter. The**

- 1 department shall hold the hearing:
- 2 (1) not less than five (5) and not more than thirty (30) days
- 3 after the department receives the petition; and
- 4 (2) in the municipality that filed the petition.
- 5 (c) At least ten (10) days before the date fixed for the hearing,
- 6 the department shall give notice of the hearing, by first class mail,
- 7 to the following:
- 8 (1) If the petitioning municipality is a city, notice shall be
- 9 given to the mayor at the address provided under subsection
- 10 (a)(3).
- 11 (2) If the petitioning municipality is a town, notice shall be
- 12 given to the president of the town council at the address
- 13 provided under subsection (a)(4).
- 14 (3) Notice shall be given to each owner of real property at the
- 15 addresses provided under subsection (a)(5).
- 16 (d) At the hearing, the department shall consider the written
- 17 plan and the information presented. The department shall
- 18 determine if:
- 19 (1) the written fiscal plan and the information presented at
- 20 the hearing establish the requirements set out in section 13(a)
- 21 of this chapter;
- 22 (2) the written fiscal plan permits the landowners in the
- 23 annexation territory to make an informed decision about
- 24 accepting annexation;
- 25 (3) the written fiscal plan and the information presented at
- 26 the hearing provides sufficient information to enable the
- 27 department to determine the municipality's ability to provide
- 28 the required services to the annexed territory; and
- 29 (4) the written fiscal plan protects the rights of the
- 30 landowners to institute proceedings to force an annexing
- 31 municipality to provide the services promised under the fiscal
- 32 plan.
- 33 (e) After the hearing, the department may approve or
- 34 disapprove the fiscal plan. The department must render a decision
- 35 not later than three (3) months after the hearing, and if no decision
- 36 is rendered within that time, the fiscal plan is considered approved
- 37 unless the department takes the extension provided in this section.
- 38 A three (3) month extension of the period during which the decision
- 39 must be rendered may be taken by the department if the
- 40 department gives notice by mail of the extension to the persons
- 41 under subsection (a), at least ten (10) days before the end of the
- 42 original three (3) month period. If no decision is rendered within
- 43 the extension period, the fiscal plan is considered approved.
- 44 (f) A:
- 45 (1) person referred to in subsection (a)(5); or
- 46 (2) petitioning city or town;
- 47 may petition for judicial review of the final determination of the
- 48 department under subsection (e). The petition must be filed in the
- 49 circuit or superior court of the county where the municipality is
- 50 located not more than forty-five (45) days after the department

1 renders its decision under subsection (e).

2 (g) The department shall publish notice under IC 5-3-1 in each  
3 county where the annexed territory is located of the:

4 (1) approval or denial of the fiscal plan; and

5 (2) approval or denial of the fiscal plan after the final  
6 disposition of all appeals;

7 in accordance with IC 5-3-1 in each county where the annexed  
8 territory is located. If the petition is denied, the annexation may  
9 not proceed, but the municipality may make further attempts to  
10 annex the territory or any part of the territory.

11 SECTION 14. IC 36-4-3-7 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) After an  
13 **annexation** ordinance is adopted, ~~under section 3, 4, 5 or 5.1 of this~~  
14 ~~chapter~~, it must be published in the manner prescribed by IC 5-3-1.  
15 Except as provided in subsection (b), (c), or (f), in the absence of  
16 remonstrance and appeal under section 11 or 15.5 of this chapter, the  
17 ordinance takes effect at least ninety (90) days after its publication and  
18 upon the filing required by section 22(a) of this chapter.

19 (b) An ordinance ~~described in subsection (d) or adopted under~~  
20 ~~section 3, 4, 5 or 5.1 of this chapter~~ may not take effect during the year  
21 preceding a year in which a federal decennial census is conducted. An  
22 ordinance that would otherwise take effect during the year preceding  
23 a year in which a federal decennial census is conducted takes effect  
24 January 2 of the year in which a federal decennial census is conducted.

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

27 (d) Except as provided in subsection (b), whenever a municipality  
28 annexes territory, all or part of which lies within a fire protection  
29 district (IC 36-8-11), the annexation ordinance (in the absence of  
30 remonstrance and appeal under section 11 or 15.5 of this chapter) takes  
31 effect the second January 1 that follows the date the ordinance is  
32 adopted and upon the filing required by section 22(a) of this chapter.

33 The municipality shall:

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

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

39 (e) If the fire protection district from which a municipality annexes  
40 territory under subsection (d) is indebted or has outstanding unpaid  
41 bonds or other obligations at the time the annexation is effective, the  
42 municipality is liable for and shall pay that indebtedness in the same  
43 ratio as the assessed valuation of the property in the annexed territory  
44 (that is part of the fire protection district) bears to the assessed  
45 valuation of all property in the fire protection district, as shown by the  
46 most recent assessment for taxation before the annexation, unless the  
47 assessed property within the municipality is already liable for the  
48 indebtedness. The annexing municipality shall pay its indebtedness  
49 under this section to the board of fire trustees. If the indebtedness  
50 consists of outstanding unpaid bonds or notes of the fire protection

1 district, the payments to the board of fire trustees shall be made as the  
2 principal or interest on the bonds or notes becomes due.

3 (f) This subsection applies to an annexation initiated by property  
4 owners under section 5.1 of this chapter in which all property owners  
5 within the area to be annexed petition the municipality to be annexed.  
6 Subject to subsections (b) and (d), and in the absence of an appeal  
7 under section 15.5 of this chapter, an annexation ordinance takes effect  
8 at least thirty (30) days after its publication and upon the filing required  
9 by section 22(a) of this chapter.

10 SECTION 15. IC 36-4-3-7.2 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2008]: **Sec. 7.2. (a) This section applies to an annexation  
13 ordinance adopted after December 31, 2006.**

14 **(b) If the most recent examination report of a municipality  
15 under IC 5-11-1-25 is critical of the municipality based upon the  
16 municipality's failure to observe a uniform compliance guideline  
17 or a specific law as set forth in IC 5-11-5-1, any annexation  
18 ordinance that has:**

19 **(1) been adopted by the municipality; and**

20 **(2) not taken effect;**

21 **is void.**

22 **(c) If an annexation ordinance is void under this section, a  
23 municipality is not prohibited under section 15 of this chapter from  
24 further annexation attempts. However, a municipality may not  
25 make any further annexation attempts until the municipality is  
26 issued an examination report under IC 5-11-1-25 that is not critical  
27 of the municipality as described in subsection (b).**

28 SECTION 16. IC 36-4-3-8 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section does  
30 not apply to an ordinance adopted under section 5 or 5.1 of this  
31 chapter.

32 (b) An ordinance ~~adopted under section 3 or 4 of this chapter~~  
33 **described in section 1.7(a) of this chapter** must include terms and  
34 conditions fairly calculated to make the annexation equitable to the  
35 property owners and residents of the municipality and the annexed  
36 territory. The terms and conditions may include:

37 (1) postponing the effective date of the annexation for not more  
38 than three (3) years; and

39 (2) establishing equitable provisions for the future management  
40 and improvement of the annexed territory and for the rendering of  
41 needed services.

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

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

46 (2) The territory is subdivided or is parceled through separate  
47 ownerships into lots or parcels such that at least sixty percent  
48 (60%) of the total number of lots and parcels are not more than  
49 one (1) acre.

50 This subsection does not apply to an ordinance annexing territory

1 described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The  
 2 ordinance must include terms and conditions impounding in a special  
 3 fund all of the municipal property taxes imposed on the annexed  
 4 territory after the annexation takes effect that are not used to meet the  
 5 basic services described in section 13(d)(4) and 13(d)(5) of this chapter  
 6 for a period of at least three (3) years. The impounded property taxes  
 7 must be used to provide additional services that were not specified in  
 8 the plan of annexation. The impounded property taxes in the fund shall  
 9 be expended as set forth in this section, not later than five (5) years  
 10 after the annexation becomes effective.

11 SECTION 17. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,  
 12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2008]: Sec. 11. (a) Except as provided in ~~section 5.1(i) of this~~  
 14 ~~chapter and subsections (d) and (e); subsection (d)~~, whenever territory  
 15 is annexed by a municipality under this chapter, the annexation may be  
 16 appealed by filing with the circuit or superior court of a county in  
 17 which the annexed territory is located a written remonstrance signed  
 18 by:

- 19 (1) at least ~~sixty-five percent (65%)~~ **fifty-one percent (51%)** of  
 20 the owners of land in the annexed territory; or  
 21 (2) the owners of more than seventy-five percent (75%) in  
 22 assessed valuation of the land in the annexed territory.

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

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

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

40 (d) If an annexation is initiated by property owners under section 5.1  
 41 of this chapter and all property owners within the area to be annexed  
 42 petition the municipality to be annexed, a remonstrance to the  
 43 annexation may not be filed under this section.

44 ~~(e) This subsection applies if:~~

- 45 ~~(1) the territory to be annexed consists of not more than one~~  
 46 ~~hundred (100) parcels; and~~  
 47 ~~(2) eighty percent (80%) of the boundary of the territory proposed~~  
 48 ~~to be annexed is contiguous to the municipality.~~

49 ~~An annexation may be appealed by filing with the circuit or superior~~  
 50 ~~court of a county in which the annexed territory is located a written~~

1 remonstrance signed by at least seventy-five percent (75%) of the  
 2 owners of land in the annexed territory as determined under subsection  
 3 (b):

4 SECTION 18. IC 36-4-3-11.4 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2008]: **Sec. 11.4. (a) This section applies to a**  
 7 **waiver of the right of remonstrance against annexation executed**  
 8 **after June 30, 2008.**

9 (b) As used in this section, "waiver" refers to a waiver of the  
 10 right of remonstrance against annexation.

11 (c) Notwithstanding any other law, a waiver executed by a  
 12 purchaser or owner of real property is not:

13 (1) a covenant that runs with the land; or

14 (2) binding on the purchaser's or owner's successors in title to  
 15 the real property.

16 (d) A waiver expires three (3) years after the date the waiver is  
 17 executed.

18 SECTION 19. IC 36-4-3-13, AS AMENDED BY P.L.111-2005,  
 19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2008]: Sec. 13. (a) Except as provided in subsections (e) and  
 21 ~~(g)~~; (f), at the hearing under section 12 of this chapter, the court shall  
 22 order a proposed annexation to take place if the following requirements  
 23 are met:

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

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

26 (b) 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.

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

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

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

34 (C) The territory is zoned for commercial, business, or  
 35 industrial uses.

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

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

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

46 (d) The requirements of this subsection are met if the evidence  
 47 establishes that the municipality has developed and adopted a written  
 48 fiscal plan and has established a definite policy by resolution of the  
 49 legislative body as set forth in section 3.1 of this chapter. **The fiscal**  
 50 **plan must be approved by the department under section 6.5 of this**

1 **chapter before the municipality may adopt an annexation**  
 2 **ordinance.** The fiscal plan 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 estimated  
 5 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 to  
 9 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 the  
 12 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 regardless of similar topography, patterns of land use,  
 21 and population density.

22 (5) That services of a capital improvement nature, including street  
 23 construction, street lighting, sewer facilities, water facilities, and  
 24 stormwater drainage facilities, will be provided to the annexed  
 25 territory within three (3) years after the effective date of the  
 26 annexation in the same manner as those services are provided to  
 27 areas within the corporate boundaries, regardless of similar  
 28 topography, patterns of land use, and population density, and in  
 29 a manner consistent with federal, state, and local laws,  
 30 procedures, and planning criteria.

31 (e) At the hearing under section 12 of this chapter, the court shall do  
 32 the following:

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

34 (2) Order a proposed annexation not to take place if the court  
 35 finds that all of the conditions set forth in clauses (A) through ~~(D)~~  
 36 ~~and, if applicable, clause (E)~~ (C) exist in the territory proposed to  
 37 be annexed:

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

40 (i) Police and fire protection.

41 (ii) Street and road maintenance.

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

44 ~~(C) The annexation is not in the best interests of the owners of~~  
 45 ~~land in the territory proposed to be annexed as set forth in~~  
 46 ~~subsection (f).~~

47 ~~(D)~~ (C) One (1) of the following opposes the annexation:

48 (i) At least ~~sixty-five percent (65%)~~ **fifty-one percent**  
 49 **(51%)** of the owners of land in the territory proposed to be  
 50 annexed.

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

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

6 ~~(E)~~ This clause applies only to an annexation in which eighty  
7 percent (80%) of the boundary of the territory proposed to be  
8 annexed is contiguous to the municipality and the territory  
9 consists of not more than one hundred (100) parcels. At least  
10 seventy-five percent (75%) of the owners of land in the  
11 territory proposed to be annexed oppose the annexation as  
12 determined under section ~~11~~(b) of this chapter.

13 ~~(f)~~ The municipality under subsection ~~(e)(2)(C)~~ bears the burden of  
14 proving that the annexation is in the best interests of the owners of land  
15 in the territory proposed to be annexed. In determining this issue, the  
16 court may consider whether the municipality has extended sewer or  
17 water services to the entire territory to be annexed:

18 ~~(1)~~ within the three ~~(3)~~ years preceding the date of the  
19 introduction of the annexation ordinance; or

20 ~~(2)~~ under a contract in lieu of annexation entered into under  
21 ~~IC 36-4-3-21~~.

22 The court may not consider the provision of water services as a result  
23 of an order by the Indiana utility regulatory commission to constitute  
24 the provision of water services to the territory to be annexed.

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

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

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

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

38 (i) Police and fire protection.

39 (ii) Street and road maintenance.

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

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

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

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

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

50 ~~(h)~~ ~~(g)~~ The most recent:

- 1 (1) federal decennial census;
- 2 (2) federal special census;
- 3 (3) special tabulation; or
- 4 (4) corrected population count;

5 shall be used as evidence of resident population density for purposes  
6 of subsection (b)(2)(A), but this evidence may be rebutted by other  
7 evidence of population density.

8 SECTION 20. IC 36-5-1-7 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The county  
10 executive must obtain the consent by ordinance of the legislative body  
11 of a consolidated city before incorporating a town if any part of the  
12 proposed town is within four (4) miles of the corporate boundaries of  
13 the city.

14 (b) The county executive must obtain the consent by ordinance of  
15 the legislative body of a second or third class city before incorporating  
16 a town if any part of the proposed town is within three (3) miles of the  
17 corporate boundaries of the city.

18 (c) Subsection (b) does not apply to a county having a population of  
19 more than four hundred thousand (400,000) but less than seven  
20 hundred thousand (700,000).

21 **(d) Subsections (a) and (b) do not apply if the proposed town has**  
22 **an assessed value of at least seven hundred fifty million dollars**  
23 **(\$750,000,000) as shown by the most recent assessment.**

24 SECTION 21. IC 36-9-22-2 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The power of the  
26 municipal works board to fix the terms of a contract under this section  
27 applies to contracts for the installation of sewage works that have not  
28 been finally approved or accepted for full maintenance and operation  
29 by the municipality on July 1, 1979.

30 (b) The works board of a municipality may contract with owners of  
31 real property for the construction of sewage works within the  
32 municipality or within four (4) miles outside its corporate boundaries  
33 in order to provide service for the area in which the real property of the  
34 owners is located. The contract must provide, for a period of not to  
35 exceed fifteen (15) years, for the payment to the owners and their  
36 assigns by any owner of real property who:

- 37 (1) did not contribute to the original cost of the sewage works;
- 38 and
- 39 (2) subsequently taps into, uses, or deposits sewage or storm  
40 waters in the sewage works or any lateral sewers connected to  
41 them;

42 of a fair pro rata share of the cost of the construction of the sewage  
43 works, subject to the rules of the board and notwithstanding any other  
44 law relating to the functions of local governmental entities. However,  
45 the contract does not apply to any owner of real property who is not a  
46 party to it unless it has been recorded in the office of the recorder of the  
47 county in which the real property of the owner is located before the  
48 owner taps into or connects to the sewers and facilities. The board may  
49 provide that the fair pro rata share of the cost of construction includes  
50 interest at a rate not exceeding the amount of interest allowed on

1 judgments, and the interest shall be computed from the date the sewage  
2 works are approved until the date payment is made to the municipality.

3 (c) The contract must include, as part of the consideration running  
4 to the municipality, the release of the right of the parties to the contract  
5 **and their successors in title** to remonstrate against pending or future  
6 annexations by the municipality of the area served by the sewage works  
7 ~~Any person tapping into or connecting to the sewage works contracted~~  
8 ~~for is considered to waive his rights to remonstrate against the~~  
9 ~~annexation of the area served by the sewage works: for a period not~~  
10 ~~more than three (3) years after the date the contract is executed.~~

11 (d) **Notwithstanding any other law, a release executed by the**  
12 **parties after June 30, 2008, under subsection (c) is not:**

13 (1) **a covenant that runs with the land; or**

14 (2) **binding on the parties' successors in title to the real**  
15 **property.**

16 ~~(d)~~ (e) Subsection (c) does not apply to a landowner if all of the  
17 following conditions apply:

18 (1) The landowner is required to connect to the sewage works  
19 because a person other than the landowner has polluted or  
20 contaminated the area.

21 (2) The costs of extension of or connection to the sewage works  
22 are paid by a person other than the landowner or the municipality.

23 SECTION 22. IC 36-4-3-9 IS REPEALED [EFFECTIVE JULY 1,  
24 2008].

25 SECTION 23. [EFFECTIVE JULY 1, 2008] **SECTIONS 6 through**  
26 **15 and SECTIONS 17, 18, and 20 of this act apply to annexation**  
27 **ordinances adopted after June 30, 2008.**

28 SECTION 24. [EFFECTIVE JANUARY 1, 2008  
29 (RETROACTIVE)] (a) **A municipality may not adopt an annexation**  
30 **ordinance, other than an ordinance under IC 36-4-3-5 or**  
31 **IC 36-4-3-5.1, after January 1, 2008, and before July 1, 2008.**

32 (b) **Any annexation ordinance adopted within the period**  
33 **specified in subsection (a) is void.**

34 SECTION 25. [EFFECTIVE JULY 1, 2008] (a) **IC 6-1.1-18.5-3**  
35 **and IC 6-1.1-18.5-13, both as amended by this act, apply only to**  
36 **property taxes first due and payable after 2008.**

37 (b) **A civil taxing unit may appeal under IC 6-1.1-18.5-12 and**  
38 **IC 6-1.1-18.5-13(1), as amended by this act, regardless of whether**  
39 **the:**

40 (1) **annexation;**

41 (2) **consolidation; or**

42 (3) **other extensions of governmental services by the civil**  
43 **taxing unit to additional geographic areas or persons;**

44 **that resulted in increased costs that are the bases of the appeal**  
45 **occurred before 2009.**

46 SECTION 26. **An emergency is declared for this act.**

(Reference is to SB 114 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Local Government and Elections.**

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LONG, Chairperson