



Reprinted  
February 10, 2009

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## HOUSE BILL No. 1042

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DIGEST OF HB 1042 (Updated February 9, 2009 1:27 pm - DI 87)

**Citations Affected:** IC 36-4.

**Synopsis:** Board of public works and safety. Allows the board of public works and safety of a third class city to consist of three or five members (as determined by the mayor). Adds Wabash County to the counties that may annex noncontiguous property to be used as an industrial park.

**Effective:** July 1, 2009.

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**Duncan, Bartlett, Tyler, Smith M**

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January 7, 2009, read first time and referred to Committee on Government and Regulatory Reform.  
February 5, 2009, reported — Do Pass.  
February 9, 2009, read second time, amended, ordered engrossed.

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HB 1042—LS 6174/DI 73+



Reprinted  
February 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1042

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-4-3-4, AS AMENDED BY P.L.111-2005,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 4. (a) The legislative body of a municipality may,  
4 by ordinance, annex any of the following:  
5 (1) Territory that is contiguous to the municipality.  
6 (2) Territory that is not contiguous to the municipality and is  
7 occupied by a municipally owned or operated airport or landing  
8 field.  
9 (3) Territory that is not contiguous to the municipality but is  
10 found by the legislative body to be occupied by a municipally  
11 owned or regulated sanitary landfill, golf course, or hospital.  
12 However, if territory annexed under this subsection ceases to be  
13 used as a municipally owned or regulated sanitary landfill, golf  
14 course, or hospital for at least one (1) year, the territory reverts to  
15 the jurisdiction of the unit having jurisdiction before the  
16 annexation if the unit that had jurisdiction over the territory still  
17 exists. If the unit no longer exists, the territory reverts to the

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1 jurisdiction of the unit that would currently have jurisdiction over  
2 the territory if the annexation had not occurred. The clerk of the  
3 municipality shall notify the offices required to receive notice of  
4 a disannexation under section 19 of this chapter when the territory  
5 reverts to the jurisdiction of the unit having jurisdiction before the  
6 annexation.

7 (b) This subsection applies to municipalities in a county having a  
8 population of:

9 (1) more than seventy-three thousand (73,000) but less than  
10 seventy-four thousand (74,000);

11 (2) more than seventy-one thousand four hundred (71,400) but  
12 less than seventy-three thousand (73,000);

13 (3) more than seventy thousand (70,000) but less than  
14 seventy-one thousand (71,000);

15 (4) more than forty-five thousand (45,000) but less than forty-five  
16 thousand nine hundred (45,900);

17 (5) more than forty thousand nine hundred (40,900) but less than  
18 forty-one thousand (41,000);

19 (6) more than thirty-eight thousand (38,000) but less than  
20 thirty-nine thousand (39,000);

21 (7) more than thirty thousand (30,000) but less than thirty  
22 thousand seven hundred (30,700);

23 (8) more than twenty-three thousand five hundred (23,500) but  
24 less than twenty-four thousand (24,000); or

25 (9) more than one hundred eighty-two thousand seven hundred  
26 ninety (182,790) but less than three hundred thousand (300,000);

27 or

28 **(10) more than thirty four thousand nine hundred fifty**  
29 **(34,950) but less than thirty six thousand (36,000).**

30 Except as provided in subsection (c), the legislative body of a  
31 municipality to which this subsection applies may, by ordinance, annex  
32 territory that is not contiguous to the municipality, has its entire area  
33 not more than two (2) miles from the municipality's boundary, is to be  
34 used for an industrial park containing one (1) or more businesses, and  
35 is either owned by the municipality or by a property owner who  
36 consents to the annexation. However, if territory annexed under this  
37 subsection is not used as an industrial park within five (5) years after  
38 the date of passage of the annexation ordinance, or if the territory  
39 ceases to be used as an industrial park for at least one (1) year, the  
40 territory reverts to the jurisdiction of the unit having jurisdiction before  
41 the annexation if the unit that had jurisdiction over the territory still  
42 exists. If the unit no longer exists, the territory reverts to the

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1 jurisdiction of the unit that would currently have jurisdiction over the  
2 territory if the annexation had not occurred. The clerk of the  
3 municipality shall notify the offices entitled to receive notice of a  
4 disannexation under section 19 of this chapter when the territory  
5 reverts to the jurisdiction of the unit having jurisdiction before the  
6 annexation.

7 (c) A city in a county with a population of more than two hundred  
8 thousand (200,000) but less than three hundred thousand (300,000)  
9 may not annex territory as prescribed in subsection (b) until the  
10 territory is zoned by the county for industrial purposes.

11 (d) Notwithstanding any other law, territory that is annexed under  
12 subsection (b) or (h) is not considered a part of the municipality for the  
13 purposes of:

- 14 (1) annexing additional territory:
  - 15 (A) in a county that is not described by clause (B); or
  - 16 (B) in a county having a population of more than two hundred  
17 thousand (200,000) but less than three hundred thousand  
18 (300,000), unless the boundaries of the noncontiguous territory  
19 become contiguous to the city, as allowed by Indiana law;
  - 20 (2) expanding the municipality's extraterritorial jurisdictional  
21 area; or
  - 22 (3) changing an assigned service area under IC 8-1-2.3-6(1).

23 (e) As used in this section, "airport" and "landing field" have the  
24 meanings prescribed by IC 8-22-1.

25 (f) As used in this section, "hospital" has the meaning prescribed by  
26 IC 16-18-2-179(b).

27 (g) An ordinance adopted under this section must assign the  
28 territory annexed by the ordinance to at least one (1) municipal  
29 legislative body district.

30 (h) This subsection applies to a city having a population of more  
31 than thirty-one thousand (31,000) but less than thirty-two thousand  
32 (32,000). The legislative body of a city may, by ordinance, annex  
33 territory that:

- 34 (1) is not contiguous to the city;
- 35 (2) has its entire area not more than eight (8) miles from the city's  
36 boundary;
- 37 (3) does not extend more than:
  - 38 (A) one and one-half (1 1/2) miles to the west;
  - 39 (B) three-fourths (3/4) mile to the east;
  - 40 (C) one-half (1/2) mile to the north; or
  - 41 (D) one-half (1/2) mile to the south;
- 42 of an interchange of an interstate highway (as designated by the

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1 federal highway authorities) and a state highway (as designated  
2 by the state highway authorities); and  
3 (4) is owned by the city or by a property owner that consents to  
4 the annexation.

5 SECTION 2. IC 36-4-9-8 IS AMENDED TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies only to  
7 third class cities.

8 (b) The city executive shall appoint:  
9 (1) a city civil engineer;  
10 (2) a city attorney;  
11 (3) a chief of the fire department;  
12 (4) a chief of the police department; and  
13 (5) other officers, employees, boards, and commissions required  
14 by statute.

15 (c) **The board of public works and safety consists of three (3) or**  
16 **five (5) members (as determined by the city executive).** The  
17 members of the board of public works and safety are:

18 (1) the city executive; and  
19 (2) two (2) **or four (4)** persons appointed by the executive.

20 IC 36-4-4-2 notwithstanding, a member may hold other appointive or  
21 elective positions in city government during the member's tenure.  
22 IC 36-4-11-2 applies to board member appointments under this section.  
23 The city clerk is the clerk of the board.

24 (d) If the city legislative body adopts an ordinance under IC 36-4-12  
25 to employ a city manager, the executive may appoint the city manager  
26 to a position on the board of public works and safety in place of the  
27 executive.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1042, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BARTLETT, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1042 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-4, AS AMENDED BY P.L.111-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

- (1) Territory that is contiguous to the municipality.
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

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- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);
  - (2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);
  - (3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);
  - (4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
  - (5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);
  - (6) more than thirty-eight thousand (38,000) but less than thirty-nine thousand (39,000);
  - (7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);
  - (8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); or
  - (9) more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than three hundred thousand (300,000);
- or**
- (10) more than thirty four thousand nine hundred fifty (34,950) but less than thirty six thousand (36,000).**

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000)

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may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

- (1) annexing additional territory:
  - (A) in a county that is not described by clause (B); or
  - (B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;
- (2) expanding the municipality's extraterritorial jurisdictional area; or
- (3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than thirty-one thousand (31,000) but less than thirty-two thousand (32,000). The legislative body of a city may, by ordinance, annex territory that:

- (1) is not contiguous to the city;
- (2) has its entire area not more than eight (8) miles from the city's boundary;
- (3) does not extend more than:
  - (A) one and one-half (1 1/2) miles to the west;
  - (B) three-fourths (3/4) mile to the east;
  - (C) one-half (1/2) mile to the north; or
  - (D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and (4) is owned by the city or by a property owner that consents to the annexation."

Re-number all SECTIONS consecutively.

(Reference is to HB 1042 as printed February 6, 2009.)

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