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# SENATE BILL No. 69

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-18-15-2; IC 36-4-3; IC 36-9-22-2.

**Synopsis:** Annexation. Provides, with certain exceptions, that when a municipality initiates an annexation, the municipality must file a petition with the court containing the signatures of: (1) at least 75% of the landowners in the territory proposed to be annexed; or (2) the owners of more than 75% in assessed valuation of the land in the annexed territory. Provides that, if the court finds that the petition has a sufficient number of signatures, a hearing must be conducted to review the annexation and fiscal plan. Allows a person to intervene as a party at the hearing to review the annexation and fiscal plan if: (1) the person is an owner of property in the territory; (2) the person and no other owner of the property have signed the petition filed by the municipality; and (3) the person appeared at the hearing conducted by the municipality on the annexation ordinance or submitted a remonstrance or other document into the record of the hearing. Eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Removes provisions allowing a municipality to obtain waivers of a landowner's right to remonstrate against an annexation. Provides that in all circumstances an annexation becomes effective when the ordinance or judgment is filed by the municipal clerk.

**Effective:** July 1, 2011.

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**Gard**

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January 5, 2011, read first time and referred to Committee on Local Government.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 69



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 36-4-3-0.1 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 0.1. The addition of and amendments made to**  
4 **sections 3.1, 5.5, 7, 7.1, 12, 13, 14, 15 and 22 of this chapter by**  
5 **legislation enacted during the 2011 regular session of the general**  
6 **assembly apply to an annexation for which an annexation**  
7 **ordinance is adopted after June 30, 2011.**

8 SECTION 2. IC 36-4-3-3.1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.1. (a) This section  
10 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),  
11 4(h), or 4.1 of this chapter.

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

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



1 notification to landowners in the territory proposed to be annexed  
 2 under section 2.2 of this chapter.  
 3 (d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter,  
 4 the municipality shall establish and adopt the written fiscal plan before  
 5 adopting the annexation ordinance.  
 6 SECTION 3. IC 36-4-3-5.1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.1. (a) This section  
 8 applies to an annexation in which owners of land located outside but  
 9 contiguous to a municipality file a petition with the legislative body of  
 10 the municipality:  
 11 (1) requesting an ordinance annexing the area described in the  
 12 petition; and  
 13 (2) signed by one hundred percent (100%) of the landowners that  
 14 reside within the territory that is proposed to be annexed.  
 15 (b) Sections 2.1 and 2.2 of this chapter do not apply to an  
 16 annexation under this section.  
 17 (c) The petition circulated by the landowners must include on each  
 18 page where signatures are affixed a heading that is substantially similar  
 19 to the following:  
 20 "PETITION FOR ANNEXATION INTO THE (insert whether city  
 21 or town) OF (insert name of city or town)."  
 22 (d) The municipality may:  
 23 (1) adopt an annexation ordinance annexing the territory; and  
 24 (2) adopt a fiscal plan and establish a definite policy by resolution  
 25 of the legislative body;  
 26 after the legislative body has held a public hearing on the proposed  
 27 annexation.  
 28 (e) The municipality may introduce and hold the public hearing on  
 29 the annexation ordinance not later than thirty (30) days after the  
 30 petition is filed with the legislative body. Notice of the public hearing  
 31 may be published one (1) time in accordance with IC 5-3-1 at least  
 32 twenty (20) days before the hearing. All interested parties must have  
 33 the opportunity to testify at the hearing as to the proposed annexation.  
 34 (f) The municipality may adopt the annexation ordinance not earlier  
 35 than fourteen (14) days after the public hearing under subsection (e).  
 36 (g) A landowner may withdraw the landowner's signature from the  
 37 petition not more than thirteen (13) days after the municipality adopts  
 38 the fiscal plan by providing written notice to the office of the clerk of  
 39 the municipality. If a landowner withdraws the landowner's signature,  
 40 the petition shall automatically be considered a voluntary petition that  
 41 is filed with the legislative body under section 5 of this chapter,  
 42 fourteen (14) days after the date the fiscal plan is adopted. All

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1 provisions applicable to a petition initiated under section 5 of this  
2 chapter apply to the petition.

3 (h) If the municipality does not adopt an annexation ordinance  
4 within sixty (60) days after the landowners file the petition with the  
5 legislative body, the landowners may file a duplicate petition with the  
6 circuit or superior court of a county in which the territory is located.  
7 The court shall determine whether the annexation shall take place as  
8 set forth in section 5 of this chapter.

9 ~~(i) A remonstrance under section 11 of this chapter may not be filed.~~  
10 ~~However, an appeal under section 15.5 of this chapter may be filed.~~

11 ~~(j) (i) In the absence of an appeal under section 15.5 of this chapter,~~  
12 ~~an annexation ordinance adopted under this section takes effect not less~~  
13 ~~than thirty (30) days after the adoption of the ordinance and upon the~~  
14 ~~filing and recording of the ordinance under section 22 of this chapter.~~

15 SECTION 4. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE  
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2011]: **Sec. 5.5. (a) This section:**

18 **(1) applies to an annexation ordinance adopted after June 30,**  
19 **2011; and**

20 **(2) does not apply to an annexation under section 5, 5.1, or 7.1**  
21 **of this chapter.**

22 **(b) After a municipality adopts an annexation ordinance under**  
23 **section 3 or 4 of this chapter, in order for the annexation to**  
24 **proceed, the municipality must file a written petition under**  
25 **subsection (e), signed by owners of land in the territory proposed**  
26 **to be annexed who are in favor of the annexation. The petition**  
27 **must be signed by:**

28 **(1) at least seventy-five percent (75%) of the owners of land**  
29 **in the territory proposed to be annexed; or**

30 **(2) the owners of more than seventy-five percent (75%) in**  
31 **assessed valuation of the land in the annexed territory.**

32 **(c) The petition circulated by the municipality must include on**  
33 **each page where signatures are affixed a heading that is**  
34 **substantially similar to the following:**

35 **"PETITION FOR ANNEXATION INTO THE (insert**  
36 **whether city or town) OF (insert name of city or town)."**

37 **(d) A landowner may withdraw the landowner's signature from**  
38 **the petition not more than ten (10) days after the municipality**  
39 **adopts the annexation ordinance by providing written notice to the**  
40 **office of the clerk of the municipality. A person who withdraws the**  
41 **person's signature from the petition is considered not to have**  
42 **signed the petition for purposes of subsection (g)(2).**

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1 (e) The municipality must file the petition with the circuit or  
2 superior court of the county where the municipality is located not  
3 later than ninety (90) days after the publication of the annexation  
4 ordinance under section 7 of this chapter. The petition must be  
5 accompanied by:

- 6 (1) a copy of the ordinance; and
- 7 (2) the names and addresses of all persons who meet the  
8 requirements of subsection (g).

9 (f) On receipt of the petition, the court shall determine whether  
10 the petition has the necessary signatures. In determining the total  
11 number of landowners of the territory proposed to be annexed and  
12 whether signers of the petition are landowners, the names  
13 appearing on the tax duplicate for that territory constitute prima  
14 facie evidence of ownership. Only one (1) person having an interest  
15 in each single property, as evidenced by the tax duplicate, is  
16 considered a landowner for purposes of this section. If the court  
17 determines that the municipality's petition is sufficient, the court  
18 shall fix a time, not later than sixty (60) days after its  
19 determination, for a hearing on the petition.

- 20 (g) A person may intervene as a party if:
  - 21 (1) the person is an owner of property in the area proposed to  
22 be annexed;
  - 23 (2) the person and no other owner of the property have signed  
24 the petition filed by the municipality; and
  - 25 (3) the person appeared in person or submitted a  
26 remonstrance or other document into the record of the  
27 hearing under section 2.1 of this chapter.

28 The court shall give a person who meets the requirements of  
29 subdivisions (1) through (3) notice of the hearing on the petition by  
30 certified mail.

31 SECTION 5. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,  
32 SECTION 116, IS AMENDED TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) After an **annexation**  
34 ordinance is adopted, under section 3; 4; 5; or 5.1 of this chapter, it **the**  
35 **ordinance** must be published in the manner prescribed by IC 5-3-1.  
36 Except as provided in subsection (b); (c); or (f); in the absence of  
37 remonstrance and appeal under section 11 or 15.5 of this chapter, the  
38 ordinance takes effect at least ninety (90) days after its publication and  
39 upon the filing required by section 22(a) of this chapter. **The**  
40 **ordinance takes effect as follows:**

- 41 (1) Except as provided in subsection (b) or (d), if the  
42 ordinance is adopted under section 5 of this chapter, in the

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**absence of an appeal under section 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon filing under section 22(a) of this chapter.**

**(2) Except as provided in subsection (b) or (d), if the ordinance is adopted under section 5.1 of this chapter, in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.**

**(3) Except as provided in subsection (b) or (d), if the ordinance is adopted under section 5.5 of this chapter, and the court's judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective upon the filing under section 22(a) of this chapter.**

**(4) Notwithstanding subsection (b), and except as provided in subsection (d), an annexation under section 7.1 of this chapter takes effect upon the expiration of the sixty (60) day appeal period under section 15.5 of this chapter and after the filing required by section 22(a) of this chapter.**

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter **annexation** may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

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

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of ~~remonstrance and a hearing or an~~ appeal under section ~~11~~ 12 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

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

(e) If the fire protection district from which a municipality annexes

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

14 ~~(f) This subsection applies to an annexation initiated by property~~  
 15 ~~owners under section 5-1 of this chapter in which all property owners~~  
 16 ~~within the area to be annexed petition the municipality to be annexed.~~  
 17 ~~Subject to subsections (b) and (d), and in the absence of an appeal~~  
 18 ~~under section 15.5 of this chapter, an annexation ordinance takes effect~~  
 19 ~~at least thirty (30) days after its publication and upon the filing required~~  
 20 ~~by section 22(a) of this chapter.~~

21 SECTION 6. IC 36-4-3-7.1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.1. Notwithstanding  
 23 section 7(b) of this chapter, an ordinance adopted under section 4 of  
 24 this chapter takes effect immediately upon the expiration of the sixty  
 25 (60) day ~~remonstrance and~~ appeal period under section ~~11~~ or 15.5 of  
 26 this chapter and after the ~~publication, filing and recording~~ required by  
 27 section 22(a) of this chapter if all of the following conditions are met:

- 28 (1) The annexed territory has no population.
- 29 (2) Ninety percent (90%) of the total assessed value of the land  
 30 for property tax purposes has one (1) owner.
- 31 (3) The annexation is required to fulfill an economic development  
 32 incentive package and to retain an industry through various local  
 33 incentives, including urban enterprise zone benefits.

34 SECTION 7. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,  
 35 SECTION 117, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) The circuit or superior court  
 37 shall:

- 38 (1) on the date fixed under section ~~11~~ 5.5 of this chapter, hear and  
 39 determine the ~~remonstrance~~ petition without a jury; and
- 40 (2) without delay, enter judgment on the question of the  
 41 annexation according to the evidence that either party may  
 42 introduce.

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1 (b) If the court enters judgment in favor of the annexation, the  
2 annexation may not take effect during the year preceding the year in  
3 which a federal decennial census is conducted. An annexation that  
4 would otherwise take effect during the year preceding a year in which  
5 a federal decennial census is conducted takes effect January 1 of the  
6 year in which a federal decennial census is conducted.

7 SECTION 8. IC 36-4-3-13, AS AMENDED BY P.L.111-2005,  
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2011]: Sec. 13. (a) ~~Except as provided in subsections (e) and~~  
10 ~~(g)~~; At the hearing under section 12 of this chapter, the court shall  
11 order a proposed annexation to take place if the following requirements  
12 are met:

- 13 (1) The requirements of either subsection (b) or (c).
- 14 (2) The requirements of subsection (d).

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

- 17 (1) That the territory sought to be annexed is contiguous to the  
18 municipality.
- 19 (2) One (1) of the following:
  - 20 (A) The resident population density of the territory sought to  
21 be annexed is at least three (3) persons per acre.
  - 22 (B) Sixty percent (60%) of the territory is subdivided.
  - 23 (C) The territory is zoned for commercial, business, or  
24 industrial uses.

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

- 27 (1) That the territory sought to be annexed is contiguous to the  
28 municipality as required by section 1.5 of this chapter, except that  
29 at least one-fourth (1/4), instead of one-eighth (1/8), of the  
30 aggregate external boundaries of the territory sought to be  
31 annexed must coincide with the boundaries of the municipality.
- 32 (2) That the territory sought to be annexed is needed and can be  
33 used by the municipality for its development in the reasonably  
34 near future.

35 (d) The requirements of this subsection are met if the evidence  
36 establishes that the municipality has developed and adopted a written  
37 fiscal plan and has established a definite policy, by resolution of the  
38 legislative body as set forth in section 3.1 of this chapter. The fiscal  
39 plan must show the following:

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

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

5 (3) The plan for the organization and extension of services. The  
6 plan must detail the specific services that will be provided and the  
7 dates the services will begin.

8 (4) That planned services of a noncapital nature, including police  
9 protection, fire protection, street and road maintenance, and other  
10 noncapital services normally provided within the corporate  
11 boundaries, will be provided to the annexed territory within one  
12 (1) year after the effective date of annexation and that they will be  
13 provided in a manner equivalent in standard and scope to those  
14 noncapital services provided to areas within the corporate  
15 boundaries regardless of similar topography, patterns of land use,  
16 and population density.

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

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

28 (1) Consider evidence on the conditions listed in subdivision (2):

29 (2) Order a proposed annexation not to take place if the court  
30 finds that all of the conditions set forth in clauses (A) through (D)  
31 and, if applicable, clause (E) exist in the territory proposed to be  
32 annexed:

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

35 (i) Police and fire protection:

36 (ii) Street and road maintenance:

37 (B) The annexation will have a significant financial impact on  
38 the residents or owners of land:

39 (C) The annexation is not in the best interests of the owners of  
40 land in the territory proposed to be annexed as set forth in  
41 subsection (f):

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

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- 1 (i) At least sixty-five percent (65%) of the owners of land in
- 2 the territory proposed to be annexed:
- 3 (ii) The owners of more than seventy-five percent (75%) in
- 4 assessed valuation of the land in the territory proposed to be
- 5 annexed:

6 Evidence of opposition may be expressed by any owner of land  
 7 in the territory proposed to be annexed:

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

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

- 20 (1) within the three (3) years preceding the date of the
- 21 introduction of the annexation ordinance; or
- 22 (2) under a contract in lieu of annexation entered into under
- 23 IC 36-4-3-21.

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

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

- 34 (1) Consider evidence on the conditions listed in subdivision (2):
- 35 (2) Order a proposed annexation not to take place if the court
- 36 finds that all of the following conditions exist in the territory
- 37 proposed to 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

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the residents or owners of land:  
(C) One (1) of the following opposes the annexation:  
(i) A majority of the owners of land in the territory proposed to be annexed.  
(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

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

- (~~h~~) (e) The most recent:
  - (1) federal decennial census;
  - (2) federal special census;
  - (3) special tabulation; or
  - (4) corrected population count;

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

SECTION 9. IC 36-4-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the remonstrance, and during the time within which the remonstrance may be taken, **hearing under section 12 of this chapter and appellate review of the court's judgment**, the territory sought to be annexed is not considered a part of the municipality.

SECTION 10. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance. ~~on which the remonstrance is based~~. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

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

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
  - (2) the date of the final disposition of all appeals to a higher court;
- unless the annexation is petitioned for under section 5 or 5.1 of this

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chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences ~~on the remonstrance~~ under section ~~11(c)~~ **12** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences ~~on the remonstrance~~ under section ~~11(c)~~ **12** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

- (1) either:
  - (A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences ~~on the remonstrance~~ under section ~~11(c)~~ **12** of this chapter; or
  - (B) after the hearing commences ~~on the remonstrance~~ as set forth in section ~~11(c)~~ **12** of this chapter; and
- (2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of

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1 the municipality complies with the filing requirement of section 22(a)  
2 of this chapter.

3 SECTION 11. IC 36-4-3-22 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (a) The clerk of the  
5 municipality shall do the following:

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

10 (A) The county auditor of each county in which the annexed  
11 territory is located.

12 (B) The circuit court clerk of each county in which the  
13 annexed territory is located.

14 (C) If a board of registration exists, the registration board of  
15 each county in which the annexed territory is located.

16 (D) The office of the secretary of state.

17 (E) The office of census data established by IC 2-5-1.1-12.2.

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

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

23 (1) the expiration of the period permitted for a ~~remonstrance or an~~  
24 appeal; or

25 (2) the delivery of a certified order under section 15 of this  
26 chapter.

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

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

31 (1) The county highway department of each county in which the  
32 lots or lands affected are located.

33 (2) The county surveyor of each county in which the lots or lands  
34 affected are located.

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

37 (4) The sheriff of each county in which the lots or lands affected  
38 are located.

39 (5) The township trustee of each township that lost or gained  
40 jurisdiction over the annexed territory.

41 (6) The office of the secretary of state.

42 (7) The office of census data established by IC 2-5-1.1-12.2.

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1 (e) The county auditor may require the clerk of the municipality to  
2 furnish an adequate number of copies of the annexation ordinance or  
3 may charge the clerk a fee for photoreproduction of the ordinance. The  
4 county auditor shall notify the office of the secretary of state and the  
5 office of census data established by IC 2-5-1.1-12.2 of the date that the  
6 annexation ordinance is effective under this chapter.

7 (f) The county auditor or county surveyor shall, upon determining  
8 that an annexation ordinance has become effective under this chapter,  
9 indicate the annexation upon the property taxation records maintained  
10 in the office of the auditor or the office of the county surveyor.

11 SECTION 12. IC 36-9-22-2 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The power of the  
13 municipal works board to fix the terms of a contract under this section  
14 applies to contracts for the installation of sewage works that have not  
15 been finally approved or accepted for full maintenance and operation  
16 by the municipality on July 1, 1979.

17 (b) The works board of a municipality may contract with owners of  
18 real property for the construction of sewage works within the  
19 municipality or within four (4) miles outside its corporate boundaries  
20 in order to provide service for the area in which the real property of the  
21 owners is located. The contract must provide, for a period of not to  
22 exceed fifteen (15) years, for the payment to the owners and their  
23 assigns by any owner of real property who:

- 24 (1) did not contribute to the original cost of the sewage works;
- 25 and
- 26 (2) subsequently taps into, uses, or deposits sewage or storm
- 27 waters in the sewage works or any lateral sewers connected to
- 28 them;

29 of a fair pro rata share of the cost of the construction of the sewage  
30 works, subject to the rules of the board and notwithstanding any other  
31 law relating to the functions of local governmental entities. However,  
32 the contract does not apply to any owner of real property who is not a  
33 party to it unless it has been recorded in the office of the recorder of the  
34 county in which the real property of the owner is located before the  
35 owner taps into or connects to the sewers and facilities. The board may  
36 provide that the fair pro rata share of the cost of construction includes  
37 interest at a rate not exceeding the amount of interest allowed on  
38 judgments, and the interest shall be computed from the date the sewage  
39 works are approved until the date payment is made to the municipality.

40 (c) ~~The contract must include, as part of the consideration running~~  
41 ~~to the municipality, the release of the right of the parties to the contract~~  
42 ~~and their successors in title to remonstrate against pending or future~~

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1 annexations by the municipality of the area served by the sewage  
2 works. Any person tapping into or connecting to the sewage works  
3 contracted for is considered to waive his rights to remonstrate against  
4 the annexation of the area served by the sewage works.

5 (d) Subsection (c) does not apply to a landowner if all of the  
6 following conditions apply:

7 (1) The landowner is required to connect to the sewage works  
8 because a person other than the landowner has polluted or  
9 contaminated the area.

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

12 SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE  
13 JULY 1, 2011]: IC 13-18-15-2; IC 36-4-3-11; IC 36-4-3-11.5;  
14 IC 36-4-3-15.3.

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