CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 285

Citations Affected: IC 36-4-3; IC 36-9.

Synopsis: Annexation. Conference committee report for ESB 285. Provides that if a person waives the person's right to remonstrate against an annexation as part of a contract with a municipality for providing sewer service to the person's property, the release is not binding on a successor in title to the property unless, for sewer contracts executed after June 30, 2013, the successor in title: (1) has actual notice of the waiver; or (2) has constructive notice of the waiver because the contract, or a signed memorandum of the contract stating the waiver, has been recorded in the chain of title of the property. (Under current law, the contract containing the waiver must be recorded in order to bind the successors in title of the party to the agreement.) Allows municipalities that annex territory that is contiguous to the municipality to exempt from property tax liability for municipal purposes any portion of the territory that is classified for zoning purposes as agricultural. Provides that: (1) the exemption remains in place as long as the property's zoning classification remains agricultural; and (2) the property owner must consent to changing the zoning classification from agricultural to another zoning classification. (Current law requires that: (1) the owner must consent to the annexation; and (2) the owner must consent to change the zoning classification from agricultural, but the property tax exemption is limited to not more than 10 years.) Removes a requirement that a town obtain the consent of a second or third class city before annexing territory within three miles of the city. Prohibits a town from annexing within one mile of the corporate boundaries of a second or third class city unless: (1) the town is located in a different county than the city; or (2) the annexation is obtained by consent of the landowners. Allows a town to annex within an area that extends: (1) more than one mile; and (2) less than three miles; outside the boundaries of a second or third class city, if any annexation by the town does not extend more than one mile outside the corporate boundaries of the town. Authorizes the establishment of the interim study committee on annexation to study: (1) the annexation process; (2) the impact of annexation on property owners and political subdivisions, including the shift in assessed value between political subdivisions; and (3) limiting the assessed value that a municipality may annex in a year or other period. **(This conference committee report does the following: (1) Allows a municipality to exempt agricultural property regardless of whether the owner of the property consents to the annexation. (2) Adds a provision that allows a town to annex within three miles of a second**

or third class city without obtaining the city's consent. (3) Prohibits a town from annexing within one mile of a second or third class city unless the town is located in a different county or the landowners consent to the annexation. (4) Allows a town to annex within an area that extends more than one mile outside the boundaries of a second or third class city and less than three miles outside the boundaries, if any annexation by the town does not extend more than one mile outside the corporate boundaries of the town. (5) Authorizes the establishment of the interim study committee on annexation. (6) Changes the effective date of the following provisions of the bill from July 1, 2013, to upon passage: (1) Property tax exemptions for agricultural property. (2) Restrictions on annexations of cities and towns within a certain proximity of each other.)

Effective: Upon passage; July 1, 2013.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 285 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-4-3-4.1, AS AMENDED BY P.L.119-2012, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) **A municipality may annex territory under this section only if the territory is contiguous to the municipality.** ~~The legislative body of a municipality may, by ordinance, annex territory that:~~

~~(1) is contiguous to the municipality;~~

~~(2) is in a town having a population of more than:~~

~~(A) twenty-five thousand (25,000); or~~

~~(B) ten thousand (10,000) but less than twenty thousand (20,000);~~

~~located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000), if the town has its entire area within the township within which the town is primarily located; and~~

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

(b) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural. ~~However, if the~~

~~annexation ordinance annexing the territory is adopted after June 30, 2006, the property tax liability under IC 6-1.1 for municipal purposes may be exempted for a period of not more than ten (10) years.~~

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

(d) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

SECTION 2. IC 36-4-3-9, AS AMENDED BY P.L.111-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) A town may not annex within an area that extends one (1) mile outside the corporate boundaries of a second or third class city. A town may annex within the area that extends:

(1) more than one (1) mile; and

(2) not more than three (3) miles;

outside the corporate boundaries of a second or third class city, if the annexation by the town does not include territory that extends more than one (1) mile outside the corporate boundaries of the town.

~~(b) A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city unless:~~

(c) Subsection (b) does not apply to:

(1) ~~the~~ **a** town that proposes to annex ~~the~~ territory ~~is~~ located in a different county than the city; or

(2) ~~the~~ **an** annexation by ~~the~~ **a** town **that** is:

(A) an annexation under section 5 or 5.1 of this chapter; or

(B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

~~(c)~~ **(d)** In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection ~~(b)(2)(B)~~ **(c)(2)(B)** are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

~~(d)~~ **(e)** Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

SECTION 3. IC 36-9-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

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

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to ~~it~~ **the contract** unless ~~it~~ **the contract or (after June 30, 2013) a signed memorandum of the contract** has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive ~~his~~ **the person's** rights to remonstrate against the annexation of the area served by the sewage works.

(d) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, the release of the right to remonstrate is binding on a successor in title to a party to the contract only if the successor in title:

(1) has actual notice of the release; or

(2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

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

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

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

SECTION 4. IC 36-9-25-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) As to each municipality to which this chapter applies:

(1) all the territory included within the corporate boundaries of the municipality; and

(2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

(1) a resolution adopted by the legislative body of another municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon

which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) **or (after June 30, 2013) a signed memorandum of the sewer service agreement** shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each ~~recorded~~ agreement **that is recorded, or each agreement of which a signed memorandum is recorded, and** that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection ~~(i),~~ **(j),** sewer service agreements made under subsection (e) must contain a **waiver** provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

(1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;

(2) not appeal from an order or a judgment annexing the property to a municipality; and

(3) not file a complaint or an action against annexation proceedings.

(h) This subsection does not affect any rights or liabilities accrued or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, a waiver of the right to remonstrate under subsection (g) is binding as to an executor, administrator, heir, devisee, grantee, successor, or assign of a party to a sewer service agreement under subsection (g) only if the executor, administrator, heir, devisee, grantee, successor, or assign:

(1) has actual notice of the waiver; or

(2) has constructive notice of the waiver because the sewer service agreement or a signed memorandum of the sewer service agreement stating the waiver has been recorded in the chain of title of the property.

~~(h)~~ **(i)** This section does not affect any sewer service agreements

entered into before March 13, 1953.

~~(i)~~ **(j)** Subsection (g) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the municipality.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on annexation authorized in subsection (b).**

(b) The interim study committee on annexation may be established.

(c) The committee consists of the following members:

(1) Four (4) members of the house of representatives appointed by the speaker of the house of representatives. Not more than two (2) members appointed under this subdivision may be members of the same political party.

(2) Four (4) members of the senate appointed by the president pro tempore of the senate. Not more than two (2) members appointed under this subdivision may be members of the same political party.

(d) The chairman of the legislative council shall appoint the committee's chair.

(e) IC 2-5-1.2 applies to the committee.

(f) The committee shall study the following:

(1) The annexation process.

(2) The impact of annexation on property owners and political subdivisions, including the resulting shift in assessed value between political subdivisions.

(3) Limiting the amount of assessed value that a municipality may annex within a year or other period.

(g) This SECTION expires November 1, 2013.

SECTION 6. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to ESB 285 as reprinted April 5, 2013.)

Conference Committee Report
on
Engrossed Senate Bill 285

Signed by:

Senator Buck Chairperson	Representative Karickhoff
Senator Stoops	Representative Candelaria Reardon
Senate Conferees	**House Conferees**