

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>9</b>
<b>NO:</b>	<b>0</b>

## MR. SPEAKER:

*Your Committee on Local Government, to which was referred House Bill 1186, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 36-5-1-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Proceedings to
- 4 incorporate a town may be instituted by filing a **written** petition in
- 5 quadruplicate with the executive of ~~each the~~ county ~~in which a part~~
- 6 **that contains all or a majority** of the territory sought to be
- 7 incorporated. ~~is located.~~ The petition must be signed by at least ~~fifty~~
- 8 **(50) ten percent (10%) of the** owners of land in the territory and must
- 9 state ~~that:~~ **the following:**
- 10 (1) The territory is used or will, in the reasonably foreseeable
- 11 future, be used generally for commercial, industrial, residential,
- 12 or similar purposes.
- 13 (2) The territory is reasonably compact and contiguous.
- 14 (3) There is enough undeveloped land in the territory to permit

1 reasonable growth of the town. ~~and~~  
2 (4) Incorporation is in the best interests of the citizens of the  
3 territory.

4 **(5) The name, telephone number, and electronic mail address**  
5 **(if available) of the contact person for the petitioners.**

6 **(6) If the petitioners want the incorporation to be approved by**  
7 **a public question at a special election, that the petitioners**  
8 **agree to pay the costs of the special election.**

9 (b) The signatures of the petitioners must be verified, and the  
10 verification must include a statement that the petitioners are owners of  
11 land in the territory sought to be incorporated.

12 (c) In determining the number of petitioners, not more than one (1)  
13 person having an interest in a single parcel of land may be counted, and  
14 a person owning more than one (1) parcel of land in the area may be  
15 counted only once.

16 **(d) The petition filed under subsection (a) must be accompanied**  
17 **by the ordinance of any city required to consent to the**  
18 **incorporation under section 7 of this chapter."**

19 Delete pages 2 through 4.

20 Page 5, delete lines 1 through 16.

21 Page 5, delete lines 39 through 42, begin a new paragraph and  
22 insert:

23 "SECTION 4. IC 36-5-1-8 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. **(a)** The county  
25 executive may approve a petition for incorporation only if it finds all  
26 of the following:

27 (1) That the proposed town is used or will, in the reasonably  
28 foreseeable future, be used generally for commercial, industrial,  
29 residential, or similar purposes.

30 (2) That the proposed town is reasonably compact and contiguous.

31 (3) That the proposed town includes enough territory to allow for  
32 reasonable growth in the foreseeable future.

33 (4) That a substantial majority of the property owners in the  
34 proposed town have agreed that at least six (6) of the following  
35 municipal services should be provided on an adequate basis:

36 (A) Police protection.

37 (B) Fire protection.

38 (C) Street construction, maintenance, and lighting.

- 1 (D) Sanitary sewers.
- 2 (E) Storm sewers.
- 3 (F) Health protection.
- 4 (G) Parks and recreation.
- 5 (H) Schools and education.
- 6 (I) Planning, zoning, and subdivision control.
- 7 (J) One (1) or more utility services.
- 8 (K) Stream pollution control or water conservation.
- 9 (5) That the proposed town could finance the proposed municipal
- 10 services with a reasonable tax rate, using the current assessed
- 11 valuation of properties as a basis for calculation.
- 12 (6) That incorporation is in the best interest of the territory
- 13 involved. This finding must include a consideration of:
- 14 (A) the expected growth and governmental needs of the area
- 15 surrounding the proposed town;
- 16 (B) the extent to which another unit can more adequately and
- 17 economically provide essential services and functions; and
- 18 (C) the extent to which the incorporators are willing to enter
- 19 into agreements under IC 36-1-7 with the largest neighboring
- 20 municipality, if that municipality has proposed such
- 21 agreements.
- 22 **(b) If the county executive determines that the petition satisfies**
- 23 **the requirements set forth in subsection (a), the county executive**
- 24 **shall do either of the following:**
- 25 **(1) Adopt an ordinance under section 10.1 of this chapter**
- 26 **incorporating the town.**
- 27 **(2) Adopt a resolution to place a public question concerning**
- 28 **the incorporation on the ballot at an election. The county**
- 29 **executive shall request a date for the election as follows:**
- 30 **(A) If the county executive requests the public question be**
- 31 **on the same date as a general election or primary election:**
- 32 **(i) the resolution must state that the election is to be on**
- 33 **the same date as a general or primary election, and must**
- 34 **be certified in accordance with IC 3-10-9-3; and**
- 35 **(ii) the election must be held on the date of the next**
- 36 **general election or primary election, whichever is**
- 37 **earlier, at which the question can be placed on the ballot**
- 38 **under IC 3-10-9-3.**

1           **(B) If a petition contains a request for a special election,**  
 2           **the county executive may request that the public question**  
 3           **concerning the incorporation will be on the ballot of a**  
 4           **special election. An election may be considered a special**  
 5           **election only if it is conducted on a date other than the date**  
 6           **of a general election or primary election. The date of the**  
 7           **special election must be:**

8               **(i) at least thirty (30) and not more than sixty (60) days**  
 9               **after the notice of the election is filed under IC 3-10-8-4;**  
 10              **and**

11              **(ii) not later than the next general election or primary**  
 12              **election, whichever is earlier, at which the question can**  
 13              **be placed on the ballot under IC 3-10-9-3.**

14           **If the public question is on the ballot of a special election,**  
 15           **the petitioners shall pay the costs of holding the special**  
 16           **election.**

17           **If the county executive adopts a resolution under this**  
 18           **subdivision, the county executive shall file the resolution and**  
 19           **the petition with the circuit court clerk of each county that**  
 20           **contains any part of the territory sought to be incorporated.**

21           **(c) After a resolution is filed with a circuit court clerk under**  
 22           **subsection (b)(2), the circuit court clerk shall certify the resolution**  
 23           **to the county election board. The county election board shall place**  
 24           **the following public question on the ballot:**

25               **"Shall (insert a description of the territorial boundaries) be**  
 26               **incorporated as a town?".**

27           **Only the registered voters residing within the territory of the**  
 28           **proposed town may vote on the public question.**

29           **(d) Not earlier than sixty (60) days and not later than thirty (30)**  
 30           **days before the election, the petitioners shall publish a notice in**  
 31           **accordance with IC 5-3-1 in each county where the proposed town**  
 32           **is located. The notice must include the following:**

33               **(1) A description of the boundaries of the proposed town and**  
 34               **the quantity of land contained in the territory of the proposed**  
 35               **town.**

36               **(2) The information provided under section 3(3) through 3(6)**  
 37               **of this chapter.**

38               **(3) The name, telephone number, and electronic mail address**

- 1 (if available) of the contact person for the petitioners.
- 2 (4) A statement that the petition is available for inspection
- 3 and copying in the office of the circuit court clerk of each
- 4 county where the proposed town is located.

5 The petitioners shall submit proof of publication of the notice to  
 6 the circuit court clerk of each county in which the proposed town  
 7 is located. A defect in the form of the notice does not invalidate the  
 8 petition.

9 (e) If a majority of the voters residing within the territory of the  
 10 proposed town:

11 (1) vote "no" on the public question, the territory is not  
 12 incorporated as a town, and a new petition for incorporation  
 13 may not be filed within the period set forth in section 9 of this  
 14 chapter; or

15 (2) vote "yes" on the public question, the county executive of  
 16 each county in which the proposed town is located shall adopt  
 17 an ordinance under section 10.1 of this chapter.

18 (f) The circuit court clerk shall certify the results of a public  
 19 question under this section to the following:

20 (1) The county executive of each county in which the proposed  
 21 incorporated territory is located.

22 (2) The county auditor of each county in which the proposed  
 23 incorporated territory is located.

24 (3) The department of local government finance.

25 (4) The department of state revenue.

26 (5) The state board of accounts."

27 Page 6, delete lines 1 through 32.

28 Page 6, line 37, delete "1.5" and insert "8".

29 Page 7, line 1, delete "1.5" and insert "8".

30 Page 7, delete lines 3 through 42, begin a new paragraph and insert:

31 "SECTION 5. IC 36-5-1-10.1, AS AMENDED BY P.L.113-2010,  
 32 SECTION 123, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2013]: Sec. 10.1. (a) Except as provided in  
 34 subsection (g); If the county executive makes the findings required by  
 35 section 8 of this chapter; it may a majority of the voters voting on the  
 36 public question under section 8 of this chapter vote "yes", the  
 37 county executive shall adopt an ordinance incorporating the town. The

38 (b) An ordinance adopted under subsection (a) must:

- 1 (1) provide that:  
 2 (A) all members of the town legislative body are to be elected  
 3 at large (if the town would have a population of less than three  
 4 thousand five hundred (3,500); or  
 5 (B) divide the town into not less than three (3) nor more than  
 6 seven (7) districts; and  
 7 (2) direct the county election board to conduct an election in the  
 8 town on the date of the next general or municipal election to be  
 9 held in any precincts in the county.

10 An election conducted under this section must comply with IC 3  
 11 concerning town elections. If, on the date that an ordinance was  
 12 adopted under this section, absentee ballots for a general or municipal  
 13 election have been delivered under IC 3-11-4-15 for voters within a  
 14 precinct in the town, the election must be conducted on the date of the  
 15 next general or municipal election held in any precincts in the county  
 16 after the election for which absentee balloting is being conducted.  
 17 However, a primary election may not be conducted before an election  
 18 conducted under this section, regardless of the population of the town.

19 ~~(b)~~ (c) Districts established by an ordinance adopted under this  
 20 section must comply with IC 3-11-1.5.

21 ~~(c)~~ (d) If any territory in the town is not included in one (1) of the  
 22 districts established under this section, the territory is included in the  
 23 district that:

- 24 (1) is contiguous to that territory; and  
 25 (2) contains the least population of all districts contiguous to that  
 26 territory.

27 ~~(d)~~ (e) If any territory in the town is included in more than one (1)  
 28 of the districts established under this section, the territory is included  
 29 in the district that:

- 30 (1) is one (1) of the districts in which the territory is described in  
 31 the ordinance adopted under this section;  
 32 (2) is contiguous to that territory; and  
 33 (3) contains the least population of all districts contiguous to that  
 34 territory.

35 ~~(e)~~ (f) Except as provided in subsection ~~(f)~~; (g) an ordinance  
 36 adopted under this section becomes effective when filed with:

- 37 (1) the office of the secretary of state; and  
 38 (2) the circuit court clerk of each county in which the town is

1 located.

2 ~~(f)~~ (g) An ordinance incorporating a town under this section may not  
3 take effect during the year preceding a year in which a federal  
4 decennial census is conducted. An ordinance under this section that  
5 would otherwise take effect during the year preceding a year in which  
6 a federal decennial census is conducted takes effect January 1 of the  
7 year in which a federal decennial census is conducted.

8 ~~(g)~~ Proceedings to incorporate a town across county boundaries  
9 must have the approval of the county executive of each county that  
10 contains a part of the proposed town. (h) Each county that contains a  
11 part of the proposed town must adopt identical ordinances providing  
12 for the incorporation of the town.

13 ~~(h)~~ (i) Notwithstanding subsection ~~(f)~~ (g) as that subsection existed  
14 on December 31, 2009, an ordinance that took effect January 2, 2010,  
15 because of the application of subsection ~~(f)~~; (g), as that subsection  
16 existed on December 31, 2009, is instead considered to take effect  
17 January 1, 2010, without the adoption of an ordinance or an amended  
18 ordinance or any other additional action being required.

19 SECTION 6. [EFFECTIVE JULY 1, 2013] (a) **The amendment of**  
20 **IC 36-5-1-2, IC 36-5-1-7, IC 36-5-1-7.1, IC 36-5-1-8, and**  
21 **IC 36-5-1-10.1 by this act does not affect a petition to incorporate**  
22 **a town under IC 36-5-1 that is filed before July 1, 2013, and**  
23 **considered, adopted, approved, or disapproved before July 1, 2014,**  
24 **by the county commissioners of each county in which the proposed**  
25 **town is located. Such a petition may be considered, adopted,**  
26 **approved, or disapproved by the county commissioners of each**  
27 **county in which the proposed town is located under the statutes in**  
28 **effect before July 1, 2013, as if this act had not been enacted.**

- 1       **(b) This SECTION expires July 1, 2014."**
- 2       Delete page 8.
- 3       Renumber all SECTIONS consecutively.  
(Reference is to HB 1186 as introduced.)

**and when so amended that said bill do pass.**

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Representative Neese