

# SENATE BILL No. 287

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-4-3.

**Synopsis:** Annexation remonstrance signatures. For annexation ordinances adopted after June 30, 2013, reduces the number of signatures required on an annexation remonstrance petition from at least 65% of the owners of land in the annexed territory to at least 51% of the owners of land in the annexed territory.

**Effective:** July 1, 2013.

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**Buck**

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January 8, 2013, read first time and referred to Committee on Local Government.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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# SENATE BILL No. 287



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 36-4-3-11, AS AMENDED BY P.L.111-2005,  
 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2013]: Sec. 11. (a) Except as provided in ~~section 5.1(i) of this~~  
 4 ~~chapter and~~ subsections (d) and (e), whenever territory is annexed by  
 5 a municipality under this chapter, the annexation may be appealed by  
 6 filing with the circuit or superior court of a county in which the  
 7 annexed territory is located a written remonstrance signed by:  
 8 (1) at least:  
 9 (A) sixty-five percent (65%) of the owners of land in the  
 10 annexed territory **in the case of an annexation ordinance**  
 11 **adopted before July 1, 2013;** or  
 12 (B) **fifty-one percent (51%) of the owners of land in the**  
 13 **annexed territory in the case of an annexation ordinance**  
 14 **adopted after June 30, 2013;** or  
 15 (2) the owners of more than seventy-five percent (75%) in  
 16 assessed valuation of the land in the annexed territory.  
 17 The remonstrance must be filed within ninety (90) days after the



1 publication of the annexation ordinance under section 7 of this chapter,  
2 must be accompanied by a copy of that ordinance, and must state the  
3 reason why the annexation should not take place.

4 (b) On receipt of the remonstrance, the court shall determine  
5 whether the remonstrance has the necessary signatures. In determining  
6 the total number of landowners of the annexed territory and whether  
7 signers of the remonstrance are landowners, the names appearing on  
8 the tax duplicate for that territory constitute prima facie evidence of  
9 ownership. Only one (1) person having an interest in each single  
10 property, as evidenced by the tax duplicate, is considered a landowner  
11 for purposes of this section.

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

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

21 (e) This subsection applies if:

- 22 (1) the territory to be annexed consists of not more than one  
23 hundred (100) parcels; and  
24 (2) eighty percent (80%) of the boundary of the territory proposed  
25 to be annexed is contiguous to the municipality.

26 An annexation may be appealed by filing with the circuit or superior  
27 court of a county in which the annexed territory is located a written  
28 remonstrance signed by at least seventy-five percent (75%) of the  
29 owners of land in the annexed territory as determined under subsection  
30 (b).

31 SECTION 2. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,  
32 SECTION 188, IS AMENDED TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) Except as provided in  
34 subsections (e) and (g), at the hearing under section 12 of this chapter,  
35 the court shall order a proposed annexation to take place if the  
36 following requirements are met:

- 37 (1) The requirements of either subsection (b) or (c).  
38 (2) The requirements of subsection (d).

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

- 41 (1) That the territory sought to be annexed is contiguous to the  
42 municipality.

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- 1 (2) One (1) of the following:
- 2 (A) The resident population density of the territory sought to
- 3 be annexed is at least three (3) persons per acre.
- 4 (B) Sixty percent (60%) of the territory is subdivided.
- 5 (C) The territory is zoned for commercial, business, or
- 6 industrial uses.
- 7 (c) The requirements of this subsection are met if the evidence
- 8 establishes the following:
- 9 (1) That the territory sought to be annexed is contiguous to the
- 10 municipality as required by section 1.5 of this chapter, except that
- 11 at least one-fourth (1/4), instead of one-eighth (1/8), of the
- 12 aggregate external boundaries of the territory sought to be
- 13 annexed must coincide with the boundaries of the municipality.
- 14 (2) That the territory sought to be annexed is needed and can be
- 15 used by the municipality for its development in the reasonably
- 16 near future.
- 17 (d) The requirements of this subsection are met if the evidence
- 18 establishes that the municipality has developed and adopted a written
- 19 fiscal plan and has established a definite policy, by resolution of the
- 20 legislative body as set forth in section 3.1 of this chapter. The fiscal
- 21 plan must show the following:
- 22 (1) The cost estimates of planned services to be furnished to the
- 23 territory to be annexed. The plan must present itemized estimated
- 24 costs for each municipal department or agency.
- 25 (2) The method or methods of financing the planned services. The
- 26 plan must explain how specific and detailed expenses will be
- 27 funded and must indicate the taxes, grants, and other funding to
- 28 be used.
- 29 (3) The plan for the organization and extension of services. The
- 30 plan must detail the specific services that will be provided and the
- 31 dates the services will begin.
- 32 (4) That planned services of a noncapital nature, including police
- 33 protection, fire protection, street and road maintenance, and other
- 34 noncapital services normally provided within the corporate
- 35 boundaries, will be provided to the annexed territory within one
- 36 (1) year after the effective date of annexation and that they will be
- 37 provided in a manner equivalent in standard and scope to those
- 38 noncapital services provided to areas within the corporate
- 39 boundaries regardless of similar topography, patterns of land use,
- 40 and population density.
- 41 (5) That services of a capital improvement nature, including street
- 42 construction, street lighting, sewer facilities, water facilities, and

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1 stormwater drainage facilities, will be provided to the annexed  
 2 territory within three (3) years after the effective date of the  
 3 annexation in the same manner as those services are provided to  
 4 areas within the corporate boundaries, regardless of similar  
 5 topography, patterns of land use, and population density, and in  
 6 a manner consistent with federal, state, and local laws,  
 7 procedures, and planning criteria.

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

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

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

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

17 (i) Police and fire protection.

18 (ii) Street and road maintenance.

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

21 (C) The annexation is not in the best interests of the owners of  
 22 land in the territory proposed to be annexed as set forth in  
 23 subsection (f).

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

25 (i) At least sixty-five percent (65%) of the owners of land in  
 26 the territory proposed to be annexed **in the case of an**  
 27 **annexation ordinance adopted before July 1, 2013, or at**  
 28 **least fifty-one percent (51%) of the owners of land in the**  
 29 **territory proposed to be annexed in the case of an**  
 30 **annexation ordinance adopted after June 30, 2013.**

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

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

36 (E) This clause applies only to an annexation in which eighty  
 37 percent (80%) of the boundary of the territory proposed to be  
 38 annexed is contiguous to the municipality and the territory  
 39 consists of not more than one hundred (100) parcels. At least  
 40 seventy-five percent (75%) of the owners of land in the  
 41 territory proposed to be annexed oppose the annexation as  
 42 determined under section 11(b) of this chapter.

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

6 (1) within the three (3) years preceding the date of the  
 7 introduction of the annexation ordinance; or

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

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

13 (g) This subsection applies only to cities located in a county having  
 14 a population of more than two hundred fifty thousand (250,000) but  
 15 less than two hundred seventy thousand (270,000). However, this  
 16 subsection does not apply if on April 1, 1993, the entire boundary of  
 17 the territory that is proposed to be annexed was contiguous to territory  
 18 that was within the boundaries of one (1) or more municipalities. At the  
 19 hearing under section 12 of this chapter, the court shall do the  
 20 following:

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

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

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

27 (i) Police and fire protection.

28 (ii) Street and road maintenance.

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

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

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

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

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

39 (h) The most recent:

40 (1) federal decennial census;

41 (2) federal special census;

42 (3) special tabulation; or

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

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