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SENATE BILL No. 490

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-23.

Synopsis: Disannexation from school corporations. Creates a process by which residents of a part of an existing school corporation can elect to disannex from that corporation and either annex to another existing school corporation or establish a new school corporation. Makes conforming changes.

Effective: July 1, 2013.

Smith J

January 14, 2013, read first time and referred to Committee on Education and Career Development.

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Introduced

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. 490

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

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

SECTION 1. IC 20-23-5-1, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. As used in this chapter,"acquiring school corporation" means ~~the~~ **a** school corporation that acquires territory as a result of annexation **or disannexation.**

SECTION 2. IC 20-23-5-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. As used in this chapter, "annexed territory" means the territory acquired by an acquiring school corporation as a result of annexation **or disannexation** from a ~~losing~~ **relinquishing** school corporation.

SECTION 3. IC 20-23-5-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.1. As used in this chapter, "disannex", "disannexing", "disannexation", and "school disannexation" mean any action whereby:**

(1) the boundaries of a school corporation are changed by

removing territory from a relinquishing school corporation; and

(2) the territory is transferred to an acquiring school corporation or to a new school corporation other than by annexation.

SECTION 4. IC 20-23-5-4, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. As used in this chapter, ~~"losing school corporation" means a school corporation that loses territory to an acquiring school corporation by annexation.~~ **"new school corporation" means a school corporation that is created by and acquires its territory as a result of a disannexation.**

SECTION 5. IC 20-23-5-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.1. As used in this chapter, "relinquishing school corporation" means a school corporation that relinquishes territory to an acquiring school corporation or a new school corporation by annexation or disannexation.**

SECTION 6. IC 20-23-5-7, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. Subject to the limitations and procedures in this chapter:

(1) a school corporation may annex territory from any other school corporation by resolutions of the acquiring and ~~losing~~ **relinquishing** school corporations under section 8 of this chapter**; or**

(2) territory may be disannexed from a school corporation under sections 10.1 through 10.6 of this chapter.

SECTION 7. IC 20-23-5-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. An annexation may be effected by any school corporation as follows:

(1) The acquiring and the ~~losing~~ **relinquishing** school corporations shall each adopt a substantially identical annexation resolution. The resolution must contain the following items:

(A) The name of the acquiring school corporation, which may differ from the name of the acquiring corporation at the time of the adoption of the resolution, after the effective date.

(B) A description of the annexed territory. The description:

(i) shall as near as reasonably possible

~~(i)~~ be by streets and other boundaries known by common names; and

(ii) does not have to be by legal description unless the

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additional description is necessary to identify the annexed territory.

A notice is not defective if there is a good faith compliance with this section and if the area designated may be ascertained with reasonable certainty by persons skilled in the area of real estate description.

(C) The time the annexation takes place.

(D) Any terms and conditions facilitating education of students in the:

(i) annexed territory;

(ii) ~~losing~~ **relinquishing** school corporation; or

(iii) acquiring school corporation.

The terms may provide for the continued attendance by students in the annexed territory at schools in the ~~losing~~ **relinquishing** school corporation for specified periods after annexation on a transfer basis. If students will continue attendance in schools in the ~~losing~~ **relinquishing** school corporation, transfer tuition for the students shall be paid by the acquiring school corporation to the ~~losing~~ **relinquishing** school corporation:

(i) using the method; and

(ii) at the rates;

provided by the Indiana statutes governing the computation and payment of transfer tuition costs.

(E) Disposition of assets and liabilities of the ~~losing~~ **relinquishing** school corporation to the acquiring school corporation.

(F) Allocation between the acquiring and ~~losing~~ **relinquishing** school corporations of subsequently collected school taxes levied on property in the annexed territory.

(G) The amount, if any, to be paid by the acquiring school corporation to the ~~losing~~ **relinquishing** school corporation on account of property received from the ~~losing~~ **relinquishing** school corporation.

(H) Dispositions, allocations, and amounts transferred under this subsection must be equitable.

(2) After the adoption of the resolution, notice shall be given by publication in both the acquiring school corporation and the ~~losing~~ **relinquishing** school corporation, setting out:

(A) the text of the resolution; ~~and~~

(B) a statement that the resolution has been adopted; and

(C) that a right of remonstrance exists as provided in this

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chapter.

(3) It is not necessary **under subdivision (2)(C)** to set out the remonstrance provisions of this chapter. A general reference to a right of remonstrance with a reference to this chapter is sufficient.

(4) The annexation takes effect:

(A) within thirty (30) days after publication; or

(B) at the time provided in the resolution;

whichever is later, unless within the period during which a remonstrance may be filed a remonstrance is filed in the circuit or superior court of the county where the annexed territory or any part of the annexed territory is located, by registered voters residing in the ~~losing~~ **relinquishing** school corporation at least equal in number to the greater of ten percent (10%) of the number of registered voters residing in the ~~losing~~ **relinquishing** school corporation or fifty-one percent (51%) of the number of registered voters residing in the annexed territory.

SECTION 8. IC 20-23-5-9, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The notice by publication required by section 8 of this chapter shall be made:

(1) two (2) times;

(2) a week apart; and

(3) in two (2) daily newspapers of general circulation, published in the English language and of general circulation in the acquiring school corporation and in the ~~losing~~ **relinquishing** school corporation.

(b) If there is only one (1) or no daily newspaper in either school corporation, a weekly newspaper may be used.

(c) If there is only one (1) daily or weekly newspaper, publication in the newspaper is sufficient.

(d) If a newspaper is of general circulation in both the acquiring school corporation and the ~~losing~~ **relinquishing** school corporation, publication in the newspaper qualifies as one (1) of the required publications in the acquiring school corporation and the ~~losing~~ **relinquishing** school corporation.

(e) Publication may be made jointly by the ~~losing~~ **relinquishing** school corporation and acquiring school corporation.

(f) The remonstrance period runs from the second publication.

SECTION 9. IC 20-23-5-10, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) A remonstrance under section 8 of this chapter must be in the following or a substantially similar form:

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"The undersigned hereby remonstrate against the annexation of the following described territory situated in _____ County, Indiana, whereby it would be transferred from _____ (the ~~losing~~ **relinquishing** corporation) to _____ (the acquiring corporation):

(Description of the annexed territory sufficient to identify it.)".

The remonstrance may be filed in any number of counterparts. Each counterpart shall have attached to it the affidavit of the person circulating it that each signature appearing on the remonstrance was affixed in the presence of the person circulating the petition and is the true and lawful signature of the person who made the signature. The person who makes the affidavit does not have to be one (1) of the persons who signs the counterpart to which the affidavit is attached. The remonstrance must be accompanied by a complaint filed by one (1) or more of the remonstrators (who shall be treated as a representative of the entire class of remonstrators) and signed by the remonstrator or the remonstrator's attorney, stating the reasons for the remonstrance. The reasons for the remonstrance are limited to the following:

(1) There is a procedural defect in the manner in which the annexation is carried out that is jurisdictional.

(2) The annexed territory does not form a compact area abutting the acquiring corporation.

(3) The benefits to be derived from the annexation are outweighed by the detriments, taking into consideration the respective benefits and detriments to the schools and of the students residing in the acquiring school corporation, the ~~losing~~ **relinquishing** school corporation, and the annexed territory.

(4) The:

(A) disposition of assets and liabilities of the ~~losing~~ **relinquishing** school corporation;

(B) allocation of school tax receipts between the acquiring school corporation and the ~~losing~~ **relinquishing** school corporation; and

(C) amount to be paid by the acquiring school corporation as set out in the annexation resolution;

are inequitable. Except with respect to subdivision (1), the allegations may be made in the statutory language.

(b) The plaintiff in a remonstrance under section 8 of this chapter must be the person whose name appears on the complaint. The defendants in a remonstrance under section 8 of this chapter shall be both the acquiring school corporation and the ~~losing~~ **relinquishing** school corporation. Service of process shall be made on the defendants

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as in other civil actions.

(c) To determine if a petition was timely filed, the time of filing is the time of filing with the clerk without regard to the time of issuance of the summons. If the thirtieth day falls on Sunday, a holiday, or any other day when the clerk's office is not open, the time shall be extended to the next day when the office is open.

(d) The issues in a remonstrance under section 8 of this chapter are made up by the complaint. The allegations in the complaint shall be treated as denied by each defendant. A responsive pleading may not be filed except that any defendant may, if appropriate, file a motion to dismiss the remonstrance on the ground that:

(1) the requisite number of qualified remonstrators have not signed the petition;

(2) the remonstrance was not timely filed; or

(3) the complaint does not state a cause of action.

A responsive pleading to this motion may not be filed. With respect to a motion under subdivisions (1) and (2), the allegations of the pleading shall be treated as denied by the remonstrators. To determine whether there are the requisite number of qualified remonstrators, a person may not withdraw the person's name after a remonstrance has been filed or add the person's name to the remonstrance. Any person may, however, at the trial of the cause and in support or derogation of the substantive matters in the complaint, introduce into evidence a verified statement that the person wishes the person's name added to or withdrawn from the remonstrance. The court may either hear all or a part of the matters raised by the motion to dismiss separately or may consolidate for trial all or a part of the matters with the matters relating to the substance of the case. A complaint may not be dismissed for failure to state a cause of action if a fair reading of the complaint supports one (1) of the grounds for remonstrance provided in subsection (a). The court may permit an amendment of the complaint if the amendment does not state a new ground of remonstrance.

(e) The trial of a remonstrance shall be conducted as other civil cases by the court without the intervention of a jury on the issues raised by the complaint or a motion to dismiss, or both. A change of venue from a judge may be permitted. A change of venue from the county may not be permitted. The court shall expedite the hearing of the case. The court's judgment, except with respect to any matter raised under subsection (a)(4), shall be either that:

(1) the annexation shall take place;

(2) the annexation shall not take place; or

(3) the remonstrance shall be dismissed.

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If the court finds that the remonstrators have proved any of the reasons for the remonstrance described in subsection (a)(1) through (a)(4), the court's judgment shall be that the annexation may not take place. Unless the remonstrators have proved at least one (1) of the reasons for a remonstrance described in subsection (a)(1) through (a)(4), the court's judgment shall be that the annexation shall take place. With respect to any matter raised under subsection (a)(4), the court's judgment may be either that the disposition, allocation, and amount set out in the annexing resolution is equitable or that it is inequitable. In the latter event, the court in the court's judgment shall provide for an equitable disposition, allocation, and amount. Costs shall follow judgment. Appeals may be taken from any judgment of the court in the same manner as appeals are taken in other civil cases.

SECTION 10. IC 20-23-5-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.1. (a) For the purpose of this section, a "school age child" is a child who:**

(1) is not less than four (4) years of age and not more than nineteen (19) years of age; and

(2) is enrolled in a school.

(b) Disannexation may be initiated by any of the following:

(1) A petition signed on behalf of a majority of the households:

(A) in which a school age child resides; and

(B) that are located in the territory proposed to be disannexed.

The individual who signs the petition on behalf of a household described in this subdivision must be a parent, guardian, or person having physical custody of the school age child or children. After the initiation of a disannexation by means of a petition satisfying the requirements of this subdivision, the disannexation must be approved by a majority vote of persons voting in the territory proposed to be disannexed in an election in the territory under section 10.4 of this chapter.

(2) A petition signed by ten percent (10%) of the number of registered voters residing in the territory proposed to be disannexed. After the initiation of a disannexation by means of a petition satisfying the requirements of this subdivision, the disannexation must be approved by a majority vote of persons voting in the territory proposed to be disannexed in an election in the territory under section 10.4 of this chapter.

(3) A petition signed by at least fifty-five percent (55%) of the

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registered voters residing in the territory proposed to be disannexed.

(c) A petition referred to in subsection (b) must state that the signers request the disannexation of territory from a school corporation. The petition must set forth the following information:

(1) The name of the school corporation from which the territory is to be disannexed.

(2) A description of the boundaries of the territory to be disannexed. The description must, as nearly as reasonably possible, be:

(A) by streets and other boundaries known by common names; and

(B) by legal description, unless a description in addition to the legal description is necessary to identify the annexed territory.

(3) Whether the territory is to be annexed to an existing school corporation or formed into a new school corporation.

(4) If the territory is to be annexed to an existing school corporation, the name of the existing school corporation.

(5) If the territory is to be formed into a new school corporation, the following information about the new school corporation:

(A) The name of the proposed school corporation.

(B) A general description of the boundaries.

(C) The number of members of the board of school trustees.

(D) The manner in which the permanent board of school trustees, and, if provided for, the interim board of school trustees, will be elected or appointed.

(E) The compensation, if any, of the members of the permanent board of school trustees and, if provided for, the interim board of school trustees.

(d) A petition referred to in subsection (b) must show:

(1) the date on which each person signed the petition;

(2) the person's residence address on that date; and

(3) in the case of a petition under subsection (b)(1), the name or names of the school age children residing at the address.

(e) A petition referred to in subsection (b) may be executed in several counterparts, the total of which constitutes the petition described in this section. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was

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affixed in the person's presence and is the true and lawful signature of the signer.

(f) Each signer of a petition referred to in subsection (b) may withdraw the signer's signature from the petition before the petition is filed under section 10.2, 10.3, or 10.5 of this chapter. Names may not be added to the petition after the petition is filed under section 10.2, 10.3, or 10.5 of this chapter.

(g) The following apply to a proposed disannexation under this chapter:

(1) In order for a territory that is to be disannexed to be annexed to an existing school corporation, the acquiring school corporation must adopt a resolution containing the elements described in section 8(1) of this chapter and file a copy of the resolution with the state board before the filing of:

(A) the certification by the state board under section 10.2(b) of this chapter; or

(B) the certification by the county clerk or clerks under section 10.3(b) of this chapter.

(2) In order for a territory that is to be disannexed to be formed into a new school corporation, the territory must have an average daily attendance of students who are residents in the territory, in accordance with the applicable regulations of the state superintendent, of at least two hundred seventy (270) students in grades 9 through 12 or at least one thousand (1,000) students in grades 1 through 12, and an assessed valuation per student of at least five thousand dollars ($5,000).

SECTION 11. IC 20-23-5-10.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.2. (a) A petition described in section 10.1(b)(1) of this chapter must be filed with the state board. The state board shall, within sixty (60) days after the filing of the petition, determine:**

(1) whether the petition has been signed on behalf of a majority of the households in the territory proposed to be annexed in which school age children reside; and

(2) whether the petition otherwise complies with the requirements of section 10.1 of this chapter.

In making its determination, the state board may examine information from the school corporation currently serving the territory proposed to be disannexed. The determination of the state board is final and conclusive.

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(b) If the state board determines that a petition described in section 10.1(b)(1) of this chapter meets the requirements of section 10.1 of this chapter and that the petition has been signed on behalf of a majority of the households in the territory proposed to be annexed in which school age children reside, the state board shall certify its determination to the clerk of the circuit court of the county or counties in which the territory is located.

SECTION 12. IC 20-23-5-10.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.3. (a) A petition described in section 10.1(b)(2) of this chapter must be filed with the clerk of the circuit court of the county or counties in which the territory proposed to be disannexed is located.**

(b) After receiving a petition under subsection (a), the clerk of the circuit court shall make a certification under the clerk's hand and seal of the clerk's office as to:

(1) the number of signers of the petition;

(2) the number of signers of the petition who are registered voters residing in:

(A) the territory proposed to be disannexed; or

(B) the part of the territory proposed to be disannexed that is located in the clerk's county;

as disclosed by the voter registration records of the county; and

(3) the number of registered voters residing in:

(A) the territory proposed to be disannexed; or

(B) the part of the territory proposed to be disannexed that is located in the clerk's county, as disclosed by the voter registration records of the county; and

(4) the date of the filing of the petition with the clerk.

If a territory proposed to be disannexed includes only part of a voting precinct, the clerk of the circuit court shall ascertain, from any means available, the number of registered voters residing in the part of the voting precinct that is within the territory proposed to be disannexed.

(c) In addition to making the certification under subsection (b) as to whether the petition was signed by ten percent (10%) of the number of registered voters residing in the territory proposed to be disannexed, the clerk of the circuit court shall determine whether the petition otherwise meets the requirements of section 10.1 of this chapter.

(d) The clerk of the circuit court shall make the certification

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required by subsection (b) and the determination required by subsection (c) not later than thirty (30) days after the filing of the petition under subsection (a), excluding from the calculation of that period any time during which the registration records are unavailable to the clerk. In certifying the number of registered voters, the clerk shall disregard any signature on the petition that was not made within the ninety (90) days that immediately precede the filing of the petition with the clerk, as shown by the dates set out in the petition. The clerk shall establish a record of the certification in the clerk's office and shall file the certification with the state board.

SECTION 13. IC 20-23-5-10.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.4. (a) If:**

(1) the state board, under section 10.2(b) of this chapter, certifies to the clerk of the circuit court of the county or counties in which a territory proposed to be disannexed is located that a petition described in section 10.1(b)(1) of this chapter:

(A) was signed on behalf of a majority of the households in the territory proposed to be disannexed in which school aged children reside; and

(B) otherwise meets the requirements of section 10.1 of this chapter; or

(2) the clerk of the circuit court of the county or counties in which a territory proposed to be disannexed is located, under section 10.3 of this chapter, certifies that the petition described section 10.1(b)(2) of this chapter:

(A) has been signed by ten percent (10%) of the number of registered voters residing in the territory proposed to be disannexed; and

(B) otherwise meets the requirements of section 10.1 of this chapter;

the clerk of the circuit court shall take the action specified in subsection (b).

(b) If subsection (a) applies to a petition described in section 10.1(b)(1) or section 10.1(b)(2) of this chapter, the clerk of the circuit court shall:

(1) certify to the county election board the public question of whether the disannexation, as described in the petition under section 10.1(c) of this chapter, should take place; and

(2) order the county election board:

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(A) to place the public question on the ballot for a primary election or general election under IC 3-10-9 as a local public question, if subsection (c) applies; or

(B) to conduct a special election under IC 3-10-8-1(5) at which the registered voters residing in the territory of the proposed disannexation may vote on the public question, if subsection (d) applies.

(c) If:

(1) a primary election at which county officials are nominated; or

(2) a general election at which county officials are elected;

and for which the question can be certified in compliance with IC 3-10-9-3 is to be held not within six (6) months after the certification by the state board described in subsection (a)(1) or the certification by the clerk of court described in subsection (a)(2), the question of whether the disannexation should take place shall be placed as a public question on the ballot for the primary election or general election.

(d) If a primary or general election will not be held within six (6) months after the certification by the state board described in subsection (a)(1) or the certification by the clerk of court described in subsection (a)(2), the question of whether the disannexation should take place shall be placed on the ballot of a special election IC 3-10-8-1(5). The special election shall be held:

(1) not less than sixty (60) days; and

(2) not more than one hundred twenty (120) days;

after the certification described in subsection (a)(1) or subsection (a)(2).

(e) The county election board, under IC 5-3-1, shall give notice of:

(1) the public question on the ballot at the primary election or general election, if subsection (c) applies; or

(2) the special election, if subsection (d) applies.

(f) The notice required under subsection (e) must:

(1) clearly state that the election is called to afford the registered voters an opportunity to approve or reject a proposal for the disannexation of territory from an existing school corporation;

(2) set forth a general description of the boundaries of the territory to be disannexed, as set out in the petition;

(3) if the territory is to be annexed to an existing school corporation, state the name of the existing school corporation;

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(4) if the territory is to be formed into a new school corporation, state the name of the proposed community school corporation; and

(5) designate the date, time, and voting place or places at which the election will be held.

(g) If subsection (c) applies, the county election board shall place the public question on the ballot in the form prescribed by IC 3-10-9-4. Except as otherwise provided in this chapter, the election is governed by IC 3.

(h) If subsection (d) applies, the special election conducted under this section shall be under the direction of the county election board of the county in which the territory proposed for disannexation is located. The election board shall take all steps necessary to carry out the special election. Except as otherwise provided in this chapter, the special election is governed by IC 3.

(i) The certified result of:

(1) the local public question, if subsection (c) applies; or

(2) the special election, if subsection (d) applies;

shall be filed with the state board.

(j) If the certified result filed with the state board under subsection (i) was approval of the disannexation by a majority of the persons voting on the question, the state board:

(1) shall immediately cause notice of the result to be published in the county or counties where the disannexation will take place; and

(2) declare the disannexation final and approve either:

(A) the annexation of the territory to the acquiring school corporation; or

(B) the creation of the new corporation consisting of the disannexed territory;

by adopting a resolution to that effect.

(k) Notice of the adoption of a resolution under subsection (j)(2) must be published at least once in one (1) newspaper of general circulation published in the county or counties where the disannexation will take place.

SECTION 14. IC 20-23-5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. (a) A petition described in section 10.1(b)(3) of this chapter must be filed with the clerk of the circuit court of the county or counties in which the territory proposed to be disannexed is located.**

(b) After receiving a petition under subsection (a), the clerk of

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the circuit court shall make a certification under the clerk's hand and seal of the clerk's office as to whether the petition is signed by at least fifty-five percent (55%) of the registered voters residing in the territory proposed to be disannexed.

(c) If the clerk of the circuit court certifies under subsection (b) that the petition is signed by at least fifty-five percent (55%) of the registered voters residing in the territory proposed to be disannexed, the state board shall, within thirty (30) days after the filing of the clerk's certification, conduct a hearing in the county in which the greater part of the territory to be disannexed is located. At least ten (10) days before the date of a hearing, notice of the hearing shall be given by publication at least once in one (1) newspaper of general circulation published in the county.

(d) At the hearing held under subsection (c), the state board shall receive public comment on whether the petition and the proposed disannexation meet all of the requirements of section 10.1 of this chapter, including section 10.1(g)(1) or section 10.1(g)(2), whichever is applicable.

(e) Within thirty (30) days after the hearing held under subsection (c), the state board shall meet and determine whether all of the requirements for disannexation have been met. If the state board determines that all the requirements have been met, the state board shall declare the disannexation final and approve either:

(1) the annexation of the territory to the acquiring school corporation; or

(2) the creation of the new corporation consisting of the disannexed territory;

by adopting a resolution to that effect.

(f) Notice of the adoption of a resolution under subsection (e) must be published at least once in one (1) newspaper of general circulation published in the county or counties where the disannexation will take place.

SECTION 15. IC 20-23-5-10.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.6. (a) A disannexation and annexation to an existing school corporation or creation of a new community school corporation under section 10.4 or 10.5 of this chapter takes effect on the earlier of:**

(1) July 1; or

(2) January 1;

that next follows the date of the publication of the notice by the

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state board.

(b) The acquiring or new school corporation shall assume a part of all installments of principal and interest on any indebtedness of the relinquishing school corporation (other than current obligations or temporary borrowing) that fall due after the end of the last calendar year in which the relinquishing school corporation is entitled to receive current tax receipts from property tax levies on the property of the disannexed territory. The part consists of the following:

(1) All installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the disannexed territory.

(2) A proportion of all installments relating to any other indebtedness that is in the same proportion as the valuation of the real property in the disannexed territory bears to the valuation of all the real property in the relinquishing school corporation, as the indebtedness is assessed for general taxation immediately before disannexation.

(c) The acquiring or new school corporation shall make the payments and assume the obligations provided for a school corporation acquiring territory or a building or buildings under IC 20-47-5.

(d) If a public official fails to perform a duty required of the official under this chapter within the time prescribed in this section, the omission does not invalidate the proceedings taken under this chapter.

(e) An action:

(1) to contest the validity of the disannexation of territory and the annexation of territory to an acquiring school corporation or the creation of a community school corporation under this section;

(2) to declare that a community school corporation:

(A) has not been validly formed or created; or

(B) is not validly existing; or

(3) to enjoin the disannexation, annexation, or operation of a community school corporation;

may not be instituted later than thirty (30) days after the date of publication of the notice under section 10.4(k) or 10.5(f) of this chapter. There shall be no remonstrance to a disannexation.

SECTION 16. IC 20-23-5-11, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) Within sixty (60) days after the annexation

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or disannexation takes place, the governing body of the acquiring school corporation and ~~losing~~ **relinquishing** school corporation shall adopt a plan determining the manner in which the governing body shall be constituted. The plan shall be adopted in accordance with the requirements and procedures of IC 20-23-8, except as set out in subsection (b).

(b) The adoption of a plan by the governing body in accordance with IC 20-23-8-10 and its submission to the state board under IC 20-23-8-15 are the only procedures required when an existing plan is changed as follows:

(1) All governing body members are elected at large, and there are no governing body member residency districts.

(2) Governing body members are elected from governing body member residency districts, and the annexed territory is added to or deleted from one (1) or more districts.

(3) A governing body member is appointed from a given area or district, and the annexed territory is added to or deleted from one (1) or more districts or areas.

(4) A governing body member is elected solely by the voters in a school governing body member district, but the addition or deletion of the annexed territory to or from an existing district does not constitute a denial of equal protection of the laws.

If a school corporation elects or appoints members of its governing body both from a school governing body member district encompassing the entire school corporation and from smaller districts, the governing body of the acquiring school corporation shall add the annexed territory both to the district consisting of the entire school corporation and to one (1) or more smaller districts. In a comparable situation, the ~~losing~~ **relinquishing** school corporation shall delete the annexed territory both from the district consisting of the entire school corporation and from any smaller district or districts. The change in the plan becomes effective upon its approval by the state board. The application of this subsection does not limit the initiation of, or further changes in, any plan under IC 20-23-8.

SECTION 17. IC 20-23-5-12, AS AMENDED BY P.L.2-2006, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) With respect to whether the disposition of the assets and liabilities of the ~~losing~~ **relinquishing** school corporation, allocation of school tax receipts, and the amount to be paid by the acquiring school corporation **in an annexation under section 8 of this chapter** is equitable, the court, subject to subsection (b), shall be satisfied that the annexing resolution conforms substantially to the

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following standards:

(1) The acquiring school corporation shall assume a part of all installments of principal and interest on any indebtedness of the ~~losing~~ **relinquishing** school corporation (other than current obligations or temporary borrowing) that fall due after the end of the last calendar year in which the ~~losing~~ **relinquishing** school corporation is entitled to receive current tax receipts from property tax levies on the property of the annexed territory. The part consists of the following:

(A) All installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the annexed territory.

(B) A proportion of all installments relating to any other indebtedness that is the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the ~~losing~~ **relinquishing** school corporation, as the indebtedness is assessed for general taxation immediately before annexation.

(2) The acquiring school corporation shall make the payments and assume the obligations provided for a school corporation acquiring territory or a building or buildings under IC 20-47-5.

(b) Standards under subsection (a) may not be applicable to the extent the ~~losing~~ **relinquishing** school corporation and acquiring school corporation otherwise agree in a situation where all or a majority of the students in the annexed territory have been transferred from the ~~losing~~ **relinquishing** school corporation to the acquiring school corporation for the five (5) school years immediately preceding the transfer. The agreement between school corporations may not prejudice the rights of bondholders or lessors whose rights against the ~~losing~~ **relinquishing** school corporation and acquiring school corporation shall, upon enforcement, be allocated between the ~~losing~~ **relinquishing** school corporation and acquiring school corporation in accordance with subsection (a)(1) and (a)(2).

SECTION 18. IC 20-23-5-13, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) If a remonstrance **to an annexation under section 8 of this chapter** is filed on grounds other than the grounds in section 10(a)(4) of this chapter, annexation does not become effective until final judgment in the remonstrance suit. Judgment may not be considered to be final until:

(1) the time for taking an appeal has expired; or

(2) final judgment in the appeal is entered.

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A judgment of the trial court dismissing a remonstrance is a final judgment. If judgment is against the annexation, a further annexation of the annexed territory may not take place for two (2) years after the date the remonstrance was filed. A final judgment may not prevent either the acquiring school corporation or acquiring school corporation and ~~losing~~ **relinquishing** school corporation from rescinding the annexation resolution. If the suit is dismissed without prejudice, the two (2) year prohibition does not apply unless a subsequent annexation resolution is adopted primarily for the purpose of harassment and not for some other purpose, including the correction of procedural irregularities or a substantial change in the annexed territory or the annexation resolution.

(b) If the remonstrance relates solely to any matter raised under section 10(a)(4) of this chapter, the annexation takes effect at the time provided under section 8 of this chapter.

SECTION 19. IC 20-23-5-14, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. ~~(a)~~ Laws or parts of laws in conflict with this chapter are repealed. This chapter may not be construed to repeal any part of IC 20-23-4 or any statute concerning the consolidation of two (2) or more school corporations, to which this chapter is supplementary, except to the extent that IC 20-23-4 conflicts with this section.

~~(b) An annexation that is undertaken under or that results by operation of any section of this chapter may require, for its effectiveness, any approval of any county committee or state commission or committee created under, or referred to in, IC 20-23-4.~~

SECTION 20. IC 20-23-6-16, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. **(a)** It is the policy of the state that whenever a community school corporation (as defined in IC 20-23-4-3) seeks to:

(1) reorganize into a community school corporation under IC 20-23-4 or IC 20-23-16-1 through IC 20-23-16-11;

(2) enter into a territorial annexation under IC 20-23-5 either as an acquiring school corporation or a ~~losing~~ **relinquishing** school corporation (as defined in ~~IC 20-23-5-4);~~ **IC 20-23-5-4.1);**

(3) consolidate with another school corporation under IC 20-23-6; or

(4) consolidate with another school corporation into one (1) metropolitan school district under IC 20-23-7;

the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the

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community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.

(b) The provisions of this section are not applicable to school disannexation under IC 20-23-5.

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