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# HOUSE BILL No. 1200

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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 60% 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. Repeals provisions concerning: (1) waivers of remonstrance against an annexation; (2) filing a remonstrance against an annexation; and (3) settlement agreements in lieu of annexation.

**Effective:** July 1, 2013.

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## Mayfield, Thompson

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January 10, 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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# HOUSE BILL No. 1200



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 13-18-15-2 IS REPEALED [EFFECTIVE JULY 1,  
2 2013]. Sec. 2: (a) The persons involved shall negotiate the terms for  
3 connection and service under this chapter.  
4 (b) If service is ordered under this chapter, a receiver of that service  
5 that is located in an unincorporated area may grant a waiver to a  
6 municipality providing the service. A waiver under this section:  
7 (1) must waive the receiver's right of remonstrance against  
8 annexation of the areas in which the service is to be provided; and  
9 (2) may be one (1) of the terms for connection and service  
10 described in subsection (a).  
11 (c) The waiver, if granted:  
12 (1) shall be noted on the deed of each property affected and  
13 recorded as provided by law; and  
14 (2) is considered a covenant running with the land.  
15 SECTION 2. IC 36-4-3-0.1, AS ADDED BY P.L.220-2011,  
16 SECTION 649, IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2013]: Sec. 0.1. The following amendments to



- 1 this chapter apply as follows:
- 2 (1) The addition of sections 8.5 and 8.6 (before its repeal) of this
- 3 chapter by P.L.379-1987(ss) applies to taxable years that begin
- 4 after January 1, 1987.
- 5 (2) The amendments made to section 4 of this chapter by
- 6 P.L.379-1987(ss) apply to taxable years that begin after January
- 7 1, 1987.
- 8 **(3) The addition of and amendments made to sections 3.1, 5,**
- 9 **5.1, 5.5, 7, 7.1, 12, 13, 14, 15, and 22 of this chapter by**
- 10 **legislation enacted during the 2013 regular session of the**
- 11 **general assembly apply to an annexation for which an**
- 12 **annexation ordinance is adopted after June 30, 2013.**
- 13 SECTION 3. IC 36-4-3-1.4 IS ADDED TO THE INDIANA CODE
- 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2013]: **Sec. 1.4. An individual may not waive or agree to forego**
- 16 **a person's rights under this chapter.**
- 17 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3.1. (a) This section
- 19 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),
- 20 4(h), or 4.1 of this chapter.
- 21 (b) A municipality shall develop and adopt a written fiscal plan and
- 22 establish a definite policy by resolution of the legislative body that
- 23 meets the requirements set forth in section 13 of this chapter.
- 24 (c) Except as provided in subsection (d), the municipality shall
- 25 establish and adopt the written fiscal plan before mailing the
- 26 notification to landowners in the territory proposed to be annexed
- 27 under section 2.2 of this chapter.
- 28 (d) In an annexation under section 5, ~~or~~ 5.1, **or 5.5** of this chapter,
- 29 the municipality shall establish and adopt the written fiscal plan before
- 30 adopting the annexation ordinance.
- 31 SECTION 5. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2013]: Sec. 5. **(a) A municipality may not:**
- 33 **(1) initiate or promote an annexation petition; or**
- 34 **(2) collect signatures on an annexation petition;**
- 35 **under this section.**
- 36 ~~(a)~~ **(b)** If the owners of land located outside of but contiguous to a
- 37 municipality want to have territory containing that land annexed to the
- 38 municipality, they may file with the legislative body of the municipality
- 39 a petition:
- 40 (1) signed by at least:
- 41 (A) fifty-one percent (51%) of the owners of land in the
- 42 territory sought to be annexed; or

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1 (B) the owners of seventy-five percent (75%) of the total  
2 assessed value of the land for property tax purposes; and  
3 (2) requesting an ordinance annexing the area described in the  
4 petition.

5 ~~(b)~~ (c) The petition circulated by the landowners must include on  
6 each page where signatures are affixed a heading that is substantially  
7 similar to the following:

8 "PETITION FOR ANNEXATION INTO THE (insert whether city  
9 or town) OF (insert name of city or town)."

10 ~~(c)~~ (d) Except as provided in section 5.1 of this chapter, if the  
11 legislative body fails to pass the ordinance within one hundred fifty  
12 (150) days after the date of filing of a petition under subsection ~~(a)~~, ~~(b)~~,  
13 the petitioners may file a duplicate copy of the petition in the circuit or  
14 superior court of a county in which the territory is located, and shall  
15 include a written statement of why the annexation should take place.  
16 Notice of the proceedings, in the form of a summons, shall be served  
17 on the municipality named in the petition. The municipality is the  
18 defendant in the cause and shall appear and answer.

19 ~~(d)~~ (e) The court shall hear and determine the petition without a  
20 jury, and shall order the proposed annexation to take place only if the  
21 evidence introduced by the parties establishes that:

- 22 (1) essential municipal services and facilities are not available to
- 23 the residents of the territory sought to be annexed;
- 24 (2) the municipality is physically and financially able to provide
- 25 municipal services to the territory sought to be annexed;
- 26 (3) the population density of the territory sought to be annexed is
- 27 at least three (3) persons per acre; and
- 28 (4) the territory sought to be annexed is contiguous to the
- 29 municipality.

30 If the evidence does not establish all four (4) of the preceding factors,  
31 the court shall deny the petition and dismiss the proceeding.

32 ~~(e)~~ (f) This subsection does not apply to a town that has abolished  
33 town legislative body districts under IC 36-5-2-4.1. An ordinance  
34 adopted under this section must assign the territory annexed by the  
35 ordinance to at least one (1) municipal legislative body district.

36 SECTION 6. IC 36-4-3-5.1 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.1. (a) This section  
38 applies to an annexation in which owners of land located outside but  
39 contiguous to a municipality file a petition with the legislative body of  
40 the municipality:

- 41 (1) requesting an ordinance annexing the area described in the
- 42 petition; and

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- 1 (2) signed by one hundred percent (100%) of the landowners that  
 2 reside within the territory that is proposed to be annexed.
- 3 (b) Sections 2.1 and 2.2 of this chapter do not apply to an  
 4 annexation under this section.
- 5 (c) The petition circulated by the landowners must include on each  
 6 page where signatures are affixed a heading that is substantially similar  
 7 to the following:  
 8 "PETITION FOR ANNEXATION INTO THE (insert whether city  
 9 or town) OF (insert name of city or town)."
- 10 (d) The municipality may:  
 11 (1) adopt an annexation ordinance annexing the territory; and  
 12 (2) adopt a fiscal plan and establish a definite policy by resolution  
 13 of the legislative body;  
 14 after the legislative body has held a public hearing on the proposed  
 15 annexation.
- 16 (e) The municipality may introduce and hold the public hearing on  
 17 the annexation ordinance not later than thirty (30) days after the  
 18 petition is filed with the legislative body. Notice of the public hearing  
 19 may be published one (1) time in accordance with IC 5-3-1 at least  
 20 twenty (20) days before the hearing. All interested parties must have  
 21 the opportunity to testify at the hearing as to the proposed annexation.
- 22 (f) The municipality may adopt the annexation ordinance not earlier  
 23 than fourteen (14) days after the public hearing under subsection (e).
- 24 (g) A landowner may withdraw the landowner's signature from the  
 25 petition not more than thirteen (13) days after the municipality adopts  
 26 the fiscal plan by providing written notice to the office of the clerk of  
 27 the municipality. If a landowner withdraws the landowner's signature,  
 28 the petition shall automatically be considered a voluntary petition that  
 29 is filed with the legislative body under section 5 of this chapter,  
 30 fourteen (14) days after the date the fiscal plan is adopted. All  
 31 provisions applicable to a petition initiated under section 5 of this  
 32 chapter apply to the petition.
- 33 (h) If the municipality does not adopt an annexation ordinance  
 34 within sixty (60) days after the landowners file the petition with the  
 35 legislative body, the landowners may file a duplicate petition with the  
 36 circuit or superior court of a county in which the territory is located.  
 37 The court shall determine whether the annexation shall take place as  
 38 set forth in section 5 of this chapter.
- 39 ~~(i) A remonstrance under section 11 of this chapter may not be filed.~~  
 40 ~~However, an appeal under section 15.5 of this chapter may be filed.~~
- 41 (j) (i) In the absence of an appeal under section 15.5 of this chapter,  
 42 an annexation ordinance adopted under this section takes effect not less

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1 than thirty (30) days after the adoption of the ordinance and upon the  
 2 filing and recording of the ordinance under section 22 of this chapter.

3 SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE  
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2013]: **Sec. 5.5. (a) This section:**

6 **(1) applies to an annexation ordinance adopted after June 30,**  
 7 **2013; and**

8 **(2) does not apply to an annexation under section 5 or 5.1 of**  
 9 **this chapter.**

10 **(b) After a municipality adopts an annexation ordinance under**  
 11 **section 3 or 4 of this chapter, in order for the annexation to**  
 12 **proceed, the municipality must file a written petition under**  
 13 **subsection (e), signed by owners of land in the territory proposed**  
 14 **to be annexed who are in favor of the annexation. The petition**  
 15 **must be signed by:**

16 **(1) at least sixty percent (60%) of the owners of land in the**  
 17 **territory proposed to be annexed; or**

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

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

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

25 **(d) A landowner may withdraw the landowner's signature from**  
 26 **the petition not more than ten (10) days after the municipality**  
 27 **adopts the annexation ordinance by providing written notice to the**  
 28 **office of the clerk of the municipality. A landowner who withdraws**  
 29 **the landowner's signature from the petition is considered not to**  
 30 **have signed the petition for purposes of subsection (g)(2).**

31 **(e) The municipality must file the petition with the circuit or**  
 32 **superior court of the county where the municipality is located not**  
 33 **later than ninety (90) days after the publication of the annexation**  
 34 **ordinance under section 7 of this chapter. The petition must be**  
 35 **accompanied by:**

36 **(1) a copy of the ordinance; and**

37 **(2) the names and addresses of all persons who meet the**  
 38 **requirements of subsection (g).**

39 **(f) On receipt of the petition, the court shall determine whether**  
 40 **the petition has the necessary signatures. In determining the total**  
 41 **number of landowners of the territory proposed to be annexed and**  
 42 **whether signers of the petition are landowners, the names**

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1 appearing on the tax duplicate for that territory constitute prima  
 2 facie evidence of ownership. Only one (1) person having an interest  
 3 in each single property, as evidenced by the tax duplicate, is  
 4 considered a landowner for purposes of this section. If the court  
 5 determines that the municipality's petition is sufficient, the court  
 6 shall fix a time, not later than sixty (60) days after its  
 7 determination, for a hearing on the petition.

8 (g) A person may intervene as a party at the hearing described  
 9 in subsection (f) if the person:

- 10 (1) is an owner of property in the territory proposed to be  
 11 annexed;  
 12 (2) did not sign the petition and no other owner of the  
 13 property signed the petition filed by the municipality; and  
 14 (3) appeared in person or submitted a remonstrance or other  
 15 document objecting to the annexation into the record of the  
 16 hearing under section 2.1 of this chapter.

17 The court shall give a person described in this subsection notice of  
 18 the hearing on the petition by certified mail.

19 SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,  
 20 SECTION 116, IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) After an **annexation**  
 22 ordinance is adopted, ~~under section 3, 4, 5, or 5.1 of this chapter,~~ it the  
 23 **ordinance** must be published in the manner prescribed by IC 5-3-1.  
 24 Except as provided in subsection (b); (c); or (f); in the absence of  
 25 remonstrance and appeal under section 11 or 15.5 of this chapter, the  
 26 ordinance takes effect at least ninety (90) days after its publication and  
 27 upon the filing required by section 22(a) of this chapter. The  
 28 ordinance takes effect as follows:

- 29 (1) This subdivision applies to an annexation under section 5  
 30 of this chapter. Except as provided in subsection (b) or (d), in  
 31 the absence of an appeal under section 15.5 of this chapter,  
 32 the annexation ordinance takes effect at least ninety (90) days  
 33 after its publication and upon filing under section 22(a) of this  
 34 chapter.  
 35 (2) This subdivision applies to an annexation under section 5.1  
 36 of this chapter. Except as provided in subsection (b) or (d), in  
 37 the absence of an appeal under section 15.5 of this chapter,  
 38 the ordinance takes effect not less than thirty (30) days after  
 39 the adoption of the ordinance and upon the filing under  
 40 section 22(a) of this chapter.  
 41 (3) This subdivision applies to an annexation under section 5.5  
 42 of this chapter. Except as provided in subsection (b) or (d), if

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1 the court's judgment under section 12 of this chapter,  
 2 including any appeals under section 15.5 of this chapter, is in  
 3 favor of the annexation, the annexation is effective upon the  
 4 filing under section 22(a) of this chapter.

5 (4) This subdivision applies to an annexation under section 7.1  
 6 of this chapter. Notwithstanding subsection (b), if the court's  
 7 judgment under section 12 of this chapter, including any  
 8 appeals under section 15.5 of this chapter, is in favor of the  
 9 annexation, the annexation is effective upon the filing under  
 10 section 22(a) of this chapter.

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

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

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

27 (1) provide fire protection to that territory beginning ~~on~~ the date  
 28 the ordinance is effective; and

29 (2) send written notice to the fire protection district of the date the  
 30 municipality will begin to provide fire protection to the annexed  
 31 territory within ten (10) days of the date the ordinance is adopted.

32 (e) If the fire protection district from which a municipality annexes  
 33 territory under subsection (d) is indebted or has outstanding unpaid  
 34 bonds or other obligations at the time the annexation is effective, the  
 35 municipality is liable for and shall pay that indebtedness in the same  
 36 ratio as the assessed valuation of the property in the annexed territory  
 37 (that is part of the fire protection district) bears to the assessed  
 38 valuation of all property in the fire protection district, as shown by the  
 39 most recent assessment for taxation before the annexation, unless the  
 40 assessed property within the municipality is already liable for the  
 41 indebtedness. The annexing municipality shall pay its indebtedness  
 42 under this section to the board of fire trustees. If the indebtedness

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1 consists of outstanding unpaid bonds or notes of the fire protection  
 2 district, the payments to the board of fire trustees shall be made as the  
 3 principal or interest on the bonds or notes becomes due.

4 (f) This subsection applies to an annexation initiated by property  
 5 owners under section 5.1 of this chapter in which all property owners  
 6 within the area to be annexed petition the municipality to be annexed.  
 7 Subject to subsections (b) and (d), and in the absence of an appeal  
 8 under section 15.5 of this chapter, an annexation ordinance takes effect  
 9 at least thirty (30) days after its publication and upon the filing required  
 10 by section 22(a) of this chapter.

11 SECTION 9. IC 36-4-3-7.1 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7.1. Notwithstanding  
 13 section 7(b) of this chapter, **if an ordinance is adopted under section 4**  
 14 **of this chapter and the court's judgment under section 12 of this**  
 15 **chapter, including any appeals under section 15.5 of this chapter,**  
 16 **is in favor of the annexation, the annexation** takes effect immediately  
 17 upon the expiration of the sixty (60) day remonstrance and appeal  
 18 period under section 11 or 15.5 of this chapter and after the  
 19 publication, filing and recording required by section 22(a) of this  
 20 chapter if all of the following conditions are met:

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

27 SECTION 10. IC 36-4-3-11 IS REPEALED [EFFECTIVE JULY 1,  
 28 2013]. Sec. 11. (a) Except as provided in section 5.1(i) of this chapter  
 29 and subsections (d) and (e), whenever territory is annexed by a  
 30 municipality under this chapter, the annexation may be appealed by  
 31 filing with the circuit or superior court of a county in which the  
 32 annexed territory is located a written remonstrance signed by:

- 33 (1) at least sixty-five percent (65%) of the owners of land in the  
 34 annexed territory; or
- 35 (2) the owners of more than seventy-five percent (75%) in  
 36 assessed valuation of the land in the annexed territory.

37 The remonstrance must be filed within ninety (90) days after the  
 38 publication of the annexation ordinance under section 7 of this chapter;  
 39 must be accompanied by a copy of that ordinance; and must state the  
 40 reason why the annexation should not take place.

41 (b) On receipt of the remonstrance, the court shall determine  
 42 whether the remonstrance has the necessary signatures. In determining

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1 the total number of landowners of the annexed territory and whether  
 2 signers of the remonstrance are landowners; the names appearing on  
 3 the tax duplicate for that territory constitute prima facie evidence of  
 4 ownership. Only one (1) person having an interest in each single  
 5 property; as evidenced by the tax duplicate; is considered a landowner  
 6 for purposes of this section.

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

12 (d) If an annexation is initiated by property owners under section 5-1  
 13 of this chapter and all property owners within the area to be annexed  
 14 petition the municipality to be annexed; a remonstrance to the  
 15 annexation may not be filed under this section:

16 (e) This subsection applies if:

17 (1) the territory to be annexed consists of not more than one  
 18 hundred (100) parcels; and

19 (2) eighty percent (80%) of the boundary of the territory proposed  
 20 to be annexed is contiguous to the municipality.

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

26 SECTION 11. IC 36-4-3-11.5 IS REPEALED [EFFECTIVE JULY  
 27 1, 2013]. Sec. 11.5. A landowner in an unincorporated area is not  
 28 required to grant a municipality a waiver against remonstrance as a  
 29 condition of connection to a sewer or water service if all of the  
 30 following conditions apply:

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

34 (2) A person other than the landowner or the municipality has  
 35 paid the cost of connection to the service.

36 SECTION 12. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,  
 37 SECTION 117, IS AMENDED TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) The circuit or superior court  
 39 shall:

40 (1) on the date fixed under section 11-5.5 of this chapter, hear and  
 41 determine the **remonstrance petition** without a jury; and

42 (2) without delay, enter judgment on the question of the

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1 annexation according to the evidence that either party may  
2 introduce.

3 (b) **This subsection does not apply to an annexation under**  
4 **section 7.1 of this chapter.** If the court enters judgment in favor of the  
5 annexation, the annexation may not take effect during the year  
6 preceding the year in which a federal decennial census is conducted.  
7 An annexation that would otherwise take effect during the year  
8 preceding a year in which a federal decennial census is conducted takes  
9 effect January 1 of the year in which a federal decennial census is  
10 conducted.

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

17 (1) The requirements of either subsection (b) or (c).

18 (2) The requirements of subsection (d).

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

21 (1) That the territory sought to be annexed is contiguous to the  
22 municipality.

23 (2) One (1) of the following:

24 (A) The resident population density of the territory sought to  
25 be annexed is at least three (3) persons per acre.

26 (B) Sixty percent (60%) of the territory is subdivided.

27 (C) The territory is zoned for commercial, business, or  
28 industrial uses.

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

31 (1) That the territory sought to be annexed is contiguous to the  
32 municipality as required by section 1.5 of this chapter, except that  
33 at least one-fourth (1/4), instead of one-eighth (1/8), of the  
34 aggregate external boundaries of the territory sought to be  
35 annexed must coincide with the boundaries of the municipality.

36 (2) That the territory sought to be annexed is needed and can be  
37 used by the municipality for its development in the reasonably  
38 near future.

39 (d) The requirements of this subsection are met if the evidence  
40 establishes that the municipality has developed and adopted a written  
41 fiscal plan and has established a definite policy, by resolution of the  
42 legislative body as set forth in section 3.1 of this chapter. The fiscal

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plan must show the following:

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

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

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

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

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

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

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

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

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

(i) Police and fire protection.

(ii) Street and road maintenance.

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

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

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

5 (i) At least sixty-five percent (65%) of the owners of land in  
 6 the territory proposed to be annexed:

7 (ii) The owners of more than seventy-five percent (75%) in  
 8 assessed valuation of the land in the territory proposed to be  
 9 annexed:

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

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

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

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

26 (2) under a contract in lieu of annexation entered into under  
 27 IC 36-4-3-21:

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

31 (g) This subsection applies only to cities located in a county having  
 32 a population of more than two hundred fifty thousand (250,000) but  
 33 less than two hundred seventy thousand (270,000): However, this  
 34 subsection does not apply if on April 1, 1993, the entire boundary of  
 35 the territory that is proposed to be annexed was contiguous to territory  
 36 that was within the boundaries of one (1) or more municipalities: At the  
 37 hearing under section 12 of this chapter, the court shall do the  
 38 following:

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

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

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- 1 (A) The following services are adequately furnished by a
- 2 provider other than the municipality seeking the annexation:
- 3 (i) Police and fire protection;
- 4 (ii) Street and road maintenance.
- 5 (B) The annexation will have a significant financial impact on
- 6 the residents or owners of land:
- 7 (C) One (1) of the following opposes the annexation:
- 8 (i) A majority of the owners of land in the territory proposed
- 9 to be annexed.
- 10 (ii) The owners of more than seventy-five percent (75%) in
- 11 assessed valuation of the land in the territory proposed to be
- 12 annexed.

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

- 15 (h) (e) The most recent:
- 16 (1) federal decennial census;
- 17 (2) federal special census;
- 18 (3) special tabulation; or
- 19 (4) corrected population count;

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

23 SECTION 14. IC 36-4-3-14 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. In a hearing under  
 25 section 12 of this chapter, the laws providing for change of venue from  
 26 the county do not apply, but changes of venue from the judge may be  
 27 had as in other cases. Costs follow judgment. Pending the  
 28 remonstrance, and during the time within which the remonstrance may  
 29 be taken, **hearing under section 12 of this chapter and completion**  
 30 **of all appellate review of the court's judgment**, the territory sought  
 31 to be annexed is not considered a part of the municipality.

32 SECTION 15. IC 36-4-3-15 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) The court's  
 34 judgment under section 12 or 15.5 of this chapter must specify the  
 35 annexation ordinance. ~~on which the remonstrance is based.~~ The clerk  
 36 of the court shall deliver a certified copy of the judgment to the clerk  
 37 of the municipality. The clerk of the municipality shall:

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

41 (b) If a judgment under section 12 or 15.5 of this chapter is adverse  
 42 to annexation, the municipality may not make further attempts to annex

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1 the territory or any part of the territory during the four (4) years after  
2 the later of:

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

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

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

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

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

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

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

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

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

41 A municipality may not make further attempts to annex the territory or  
42 any part of the territory during the forty-two (42) months after the date

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1 the municipality repeals the annexation ordinance. This subsection  
2 does not prohibit an annexation of the territory or part of the territory  
3 that is petitioned for under section 5 or 5.1 of this chapter.

4 (f) If a judgment under section 12 or 15.5 of this chapter orders the  
5 annexation to take place, the annexation is effective when the clerk of  
6 the municipality complies with the filing requirement of section 22(a)  
7 of this chapter.

8 SECTION 16. IC 36-4-3-15.3 IS REPEALED [EFFECTIVE JULY  
9 1, 2013]. Sec. 15.3: (a) As used in this section, "prohibition against  
10 annexation" means that a municipality may not make further attempts  
11 to annex certain territory or any part of that territory:

12 (b) As used in this section, "settlement agreement" means a written  
13 court approved settlement of a dispute involving annexation under this  
14 chapter between a municipality and remonstrators:

15 (c) Under a settlement agreement between the annexing  
16 municipality and either:

17 (1) seventy-five percent (75%) or more of all landowners  
18 participating in the remonstrance; or

19 (2) the owners of more than seventy-five percent (75%) in  
20 assessed valuation of the land owned by all landowners  
21 participating in the remonstrance;

22 the parties may mutually agree to a prohibition against annexation of  
23 all or part of the territory by the municipality for a period not to exceed  
24 twenty (20) years. The settlement agreement may address issues and  
25 bind the parties to matters relating to the provision by a municipality  
26 of planned services of a noncapital nature and services of a capital  
27 improvement nature (as described in section 13(d) of this chapter); in  
28 addition to a prohibition against annexation. The settlement agreement  
29 is binding upon the successors, heirs, and assigns of the parties to the  
30 agreement. However, the settlement agreement may be amended or  
31 revised periodically on further agreement between the annexing  
32 municipality and landowners who meet the qualifications of subsection  
33 (c)(1) or (c)(2):

34 SECTION 17. IC 36-4-3-22 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 22. (a) The clerk of the  
36 municipality shall do the following:

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

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

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- 1 (B) The circuit court clerk of each county in which the
- 2 annexed territory is located.
- 3 (C) If a board of registration exists, the registration board of
- 4 each county in which the annexed territory is located.
- 5 (D) The office of the secretary of state.
- 6 (E) The office of census data established by IC 2-5-1.1-12.2.
- 7 (2) Record each annexation ordinance adopted under this chapter
- 8 in the office of the county recorder of each county in which the
- 9 annexed territory is located.
- 10 (b) The copy must be filed and recorded no later than ninety (90)
- 11 days after:
- 12 (1) the expiration of the period permitted for a ~~remonstrance or an~~
- 13 appeal; or
- 14 (2) the delivery of a certified order under section 15 of this
- 15 chapter.
- 16 (c) Failure to record the annexation ordinance as provided in
- 17 subsection (a)(2) does not invalidate the ordinance.
- 18 (d) The county auditor shall forward a copy of any annexation
- 19 ordinance filed under this section to the following:
- 20 (1) The county highway department of each county in which the
- 21 lots or lands affected are located.
- 22 (2) The county surveyor of each county in which the lots or lands
- 23 affected are located.
- 24 (3) Each plan commission, if any, that lost or gained jurisdiction
- 25 over the annexed territory.
- 26 (4) The sheriff of each county in which the lots or lands affected
- 27 are located.
- 28 (5) The township trustee of each township that lost or gained
- 29 jurisdiction over the annexed territory.
- 30 (6) The office of the secretary of state.
- 31 (7) The office of census data established by IC 2-5-1.1-12.2.
- 32 (e) The county auditor may require the clerk of the municipality to
- 33 furnish an adequate number of copies of the annexation ordinance or
- 34 may charge the clerk a fee for photoreproduction of the ordinance. The
- 35 county auditor shall notify the office of the secretary of state and the
- 36 office of census data established by IC 2-5-1.1-12.2 of the date that the
- 37 annexation ordinance is effective under this chapter.
- 38 (f) The county auditor or county surveyor shall, upon determining
- 39 that an annexation ordinance has become effective under this chapter,
- 40 indicate the annexation upon the property taxation records maintained
- 41 in the office of the auditor or the office of the county surveyor.
- 42 SECTION 18. IC 36-9-22-2 IS AMENDED TO READ AS

COPY



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

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

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

14 and

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

18 of a fair pro rata share of the cost of the construction of the sewage  
 19 works, subject to the rules of the board and notwithstanding any other  
 20 law relating to the functions of local governmental entities. However,  
 21 the contract does not apply to any owner of real property who is not a  
 22 party to it unless it has been recorded in the office of the recorder of the  
 23 county in which the real property of the owner is located before the  
 24 owner taps into or connects to the sewers and facilities. The board may  
 25 provide that the fair pro rata share of the cost of construction includes  
 26 interest at a rate not exceeding the amount of interest allowed on  
 27 judgments, and the interest shall be computed from the date the sewage  
 28 works are approved until the date payment is made to the municipality.

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

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

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

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

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