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# HOUSE BILL No. 1297

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-18.5-3; IC 36-4-3-13.

**Synopsis:** Annexation. Provides that in determining a municipality's levy limits for a particular ensuing calendar year, the cap on increased assessed value applies to all annexations of a municipality occurring in the particular ensuing calendar year. Provides that, after June 30, 2013, an annexation may be defeated without showing at the hearing that: (1) at least 65% of the owners of land in the annexation territory continue to oppose the annexation; or (2) the owners of more than 75% in assessed valuation of the land in the annexation territory continue to oppose the annexation. Provides that after June 30, 2013, in an annexation in which 80% of the boundary of the annexation territory is contiguous to the municipality and the territory consists of not more than 100 parcels, an annexation may be defeated without showing at the hearing that at least 75% of the owners of land in the annexation territory continue to oppose the annexation.

**Effective:** Upon passage; July 1, 2013.

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## Mayfield

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January 14, 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. 1297



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 6-1.1-18.5-3, AS AMENDED BY P.L.172-2011,  
 2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: Sec. 3. (a) A civil taxing unit may not impose an  
 4 ad valorem property tax levy for an ensuing calendar year that exceeds  
 5 the amount determined in the last STEP of the following STEPS:  
 6 STEP ONE: Determine the civil taxing unit's maximum  
 7 permissible ad valorem property tax levy for the preceding  
 8 calendar year.  
 9 STEP TWO: Multiply the amount determined in STEP ONE by  
 10 the amount determined in the last STEP of section 2(b) of this  
 11 chapter.  
 12 STEP THREE: Determine the lesser of:  
 13 (A) one and fifteen hundredths (1.15); or  
 14 (B) the quotient (rounded to the nearest ten-thousandth  
 15 (0.0001)), of the assessed value of all taxable property subject  
 16 to the civil taxing unit's ad valorem property tax levy for the  
 17 ensuing calendar year, divided by the assessed value of all



1 taxable property that is subject to the civil taxing unit's ad  
 2 valorem property tax levy for the ensuing calendar year and  
 3 that is contained within the geographic area that was subject  
 4 to the civil taxing unit's ad valorem property tax levy in the  
 5 preceding calendar year.

6 **In the case of an increase in assessed value that results from**  
 7 **annexation, the result of this STEP for purposes of**  
 8 **determining the ad valorem property tax levy of a civil taxing**  
 9 **unit for a particular ensuing calendar year may not exceed**  
 10 **one and fifteen-hundredths (1.15), regardless of whether the**  
 11 **increase in assessed value resulted from only one (1)**  
 12 **annexation or from more than one (1) annexation.**

13 STEP FOUR: Determine the greater of the amount determined in  
 14 STEP THREE or one (1).

15 STEP FIVE: Multiply the amount determined in STEP TWO by  
 16 the amount determined in STEP FOUR.

17 STEP SIX: Add the amount determined under STEP TWO to the  
 18 amount of an excessive levy appeal granted under section 13 of  
 19 this chapter for the ensuing calendar year.

20 STEP SEVEN: Determine the greater of STEP FIVE or STEP  
 21 SIX.

22 (b) This subsection applies only to property taxes first due and  
 23 payable after December 31, 2007. This subsection applies only to a  
 24 civil taxing unit that is located in a county for which a county adjusted  
 25 gross income tax rate is first imposed or is increased in a particular  
 26 year under IC 6-3.5-1.1-24 or a county option income tax rate is first  
 27 imposed or is increased in a particular year under IC 6-3.5-6-30.  
 28 Notwithstanding any provision in this section or any other section of  
 29 this chapter and except as provided in subsection (c), the maximum  
 30 permissible ad valorem property tax levy calculated under this section  
 31 for the ensuing calendar year for a civil taxing unit subject to this  
 32 section is equal to the civil taxing unit's maximum permissible ad  
 33 valorem property tax levy for the current calendar year.

34 (c) This subsection applies only to property taxes first due and  
 35 payable after December 31, 2007. In the case of a civil taxing unit that:

36 (1) is partially located in a county for which a county adjusted  
 37 gross income tax rate is first imposed or is increased in a  
 38 particular year under IC 6-3.5-1.1-24 or a county option income  
 39 tax rate is first imposed or is increased in a particular year under  
 40 IC 6-3.5-6-30; and

41 (2) is partially located in a county that is not described in  
 42 subdivision (1);

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1 the department of local government finance shall, notwithstanding  
 2 subsection (b), adjust the portion of the civil taxing unit's maximum  
 3 permissible ad valorem property tax levy that is attributable (as  
 4 determined by the department of local government finance) to the  
 5 county or counties described in subdivision (2). The department of  
 6 local government finance shall adjust this portion of the civil taxing  
 7 unit's maximum permissible ad valorem property tax levy so that,  
 8 notwithstanding subsection (b), this portion is allowed to increase as  
 9 otherwise provided in this section. If the department of local  
 10 government finance increases the civil taxing unit's maximum  
 11 permissible ad valorem property tax levy under this subsection, any  
 12 additional property taxes imposed by the civil taxing unit under the  
 13 adjustment shall be paid only by the taxpayers in the county or counties  
 14 described in subdivision (2).

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

- 21 (1) The requirements of either subsection (b) or (c).  
 22 (2) The requirements of subsection (d).

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

- 25 (1) That the territory sought to be annexed is contiguous to the  
 26 municipality.  
 27 (2) One (1) of the following:  
 28 (A) The resident population density of the territory sought to  
 29 be annexed is at least three (3) persons per acre.  
 30 (B) Sixty percent (60%) of the territory is subdivided.  
 31 (C) The territory is zoned for commercial, business, or  
 32 industrial uses.

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

- 35 (1) That the territory sought to be annexed is contiguous to the  
 36 municipality as required by section 1.5 of this chapter, except that  
 37 at least one-fourth (1/4), instead of one-eighth (1/8), of the  
 38 aggregate external boundaries of the territory sought to be  
 39 annexed must coincide with the boundaries of the municipality.  
 40 (2) That the territory sought to be annexed is needed and can be  
 41 used by the municipality for its development in the reasonably  
 42 near future.

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1 (d) The requirements of this subsection are met if the evidence  
 2 establishes that the municipality has developed and adopted a written  
 3 fiscal plan and has established a definite policy, by resolution of the  
 4 legislative body as set forth in section 3.1 of this chapter. The fiscal  
 5 plan must show the following:

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

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

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

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

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

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

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

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

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

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- 1 (i) Police and fire protection.  
 2 (ii) Street and road maintenance.  
 3 (B) The annexation will have a significant financial impact on  
 4 the residents or owners of land.  
 5 (C) The annexation is not in the best interests of the owners of  
 6 land in the territory proposed to be annexed as set forth in  
 7 subsection ~~(f)~~: (g).  
 8 (D) One (1) of the following opposes the annexation:  
 9 (i) At least sixty-five percent (65%) of the owners of land in  
 10 the territory proposed to be annexed.  
 11 (ii) The owners of more than seventy-five percent (75%) in  
 12 assessed valuation of the land in the territory proposed to be  
 13 annexed.  
 14 Evidence of opposition may be expressed by any owner of land  
 15 in the territory proposed to be annexed.  
 16 (E) This clause applies only to an annexation in which eighty  
 17 percent (80%) of the boundary of the territory proposed to be  
 18 annexed is contiguous to the municipality and the territory  
 19 consists of not more than one hundred (100) parcels. At least  
 20 seventy-five percent (75%) of the owners of land in the  
 21 territory proposed to be annexed oppose the annexation as  
 22 determined under section 11(b) of this chapter.  
 23 **This subsection expires July 1, 2013.**  
 24 **(f) This subsection applies to an annexation pending after June**  
 25 **30, 2013. At the hearing under section 12 of this chapter, the court**  
 26 **shall do the following:**  
 27 **(1) Consider evidence on the conditions listed in subdivision**  
 28 **(2).**  
 29 **(2) Order a proposed annexation not to take place if the court**  
 30 **finds that all the following conditions set forth in clauses (A)**  
 31 **through (C) exist in the territory proposed to be annexed:**  
 32 **(A) The following services are adequately furnished by a**  
 33 **provider other than the municipality seeking the**  
 34 **annexation:**  
 35 **(i) Police and fire protection.**  
 36 **(ii) Street and road maintenance.**  
 37 **(B) The annexation will have a significant financial impact**  
 38 **on the residents or owners of land.**  
 39 **(C) The annexation is not in the best interests of the owners**  
 40 **of land in the territory proposed to be annexed as set forth**  
 41 **in subsection (g).**  
 42 ~~(f)~~ (g) The municipality under subsection (e)(2)(C) bears the burden

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1 of proving that the annexation is in the best interests of the owners of  
 2 land in the territory proposed to be annexed. In determining this issue,  
 3 the court may consider whether the municipality has extended sewer or  
 4 water services to the entire territory to be annexed:

- 5 (1) within the three (3) years preceding the date of the
- 6 introduction of the annexation ordinance; or
- 7 (2) under a contract in lieu of annexation entered into under
- 8 IC 36-4-3-21.

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

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

- 20 (1) Consider evidence on the conditions listed in subdivision (2).
- 21 (2) Order a proposed annexation not to take place if the court
- 22 finds that all of the following conditions exist in the territory
- 23 proposed to be annexed:
- 24 (A) The following services are adequately furnished by a
- 25 provider other than the municipality seeking the annexation:
- 26 (i) Police and fire protection.
- 27 (ii) Street and road maintenance.
- 28 (B) The annexation will have a significant financial impact on
- 29 the residents or owners of land.
- 30 (C) One (1) of the following opposes the annexation:
- 31 (i) A majority of the owners of land in the territory proposed
- 32 to be annexed.
- 33 (ii) The owners of more than seventy-five percent (75%) in
- 34 assessed valuation of the land in the territory proposed to be
- 35 annexed.

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

- 38 ~~(h)~~ **(i)** The most recent:
- 39 (1) federal decennial census;
  - 40 (2) federal special census;
  - 41 (3) special tabulation; or
  - 42 (4) corrected population count;

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

4 SECTION 3. **An emergency is declared for this act.**

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