



February 8, 2013

SENATE BILL No. 376

DIGEST OF SB 376 (Updated February 6, 2013 2:56 pm - DI 87)

Citations Affected: IC 36-4.

Synopsis: Gross assessed value limit on annexations. Provides that for annexations adopted after June 30, 2013, a municipality may not annex territory that would result in an increase in the total gross assessed value of the municipality by more than 15% in the ensuing calendar year (as compared to the total gross assessed value of the municipality before the effective date of the annexation ordinance), regardless of whether the increase in assessed value results from one or more than one annexation. Provides that for annexations adopted after June 30, 2013, the effective date of an annexation ordinance may not be more than one year after the date the annexation ordinance is adopted. (Current law provides that the effective date of an annexation ordinance in some annexations may be postponed for not more than three years.)

Effective: July 1, 2013.

Buck

January 8, 2013, read first time and referred to Committee on Local Government.
February 7, 2013, reported favorably — Do Pass.

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SB 376—LS 6750/DI 87+



February 8, 2013

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. 376

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

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

- 1 SECTION 1. IC 36-4-3-3.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3.5. (a) An annexation
3 ordinance adopted under this chapter must contain the following
4 information:
- 5 (1) A description of the boundaries of the territory to be annexed,
6 including any public highway or right-of-way.
 - 7 (2) The approximate number of acres in the territory to be
8 annexed.
 - 9 (3) A description of any special terms and conditions adopted
10 under section 8 of this chapter.
 - 11 **(4) This subdivision applies only to an annexation ordinance**
12 **adopted after June 30, 2013. The total gross assessed value of**
13 **all taxable property of:**
 - 14 **(A) the annexing municipality; and**
 - 15 **(B) the territory to be annexed.**
 - 16 **(5) This subdivision applies only to an annexation ordinance**
17 **adopted after June 30, 2013. The percentage increase in the**

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1 **total gross assessed value of all taxable property of the**
2 **municipality in the ensuing year as a result of the annexation**
3 **of the territory.**

4 (b) An ordinance adopted under section 3 or 4 of this chapter must
5 also contain a description of any property tax abatements adopted
6 under section 8.5 of this chapter.

7 SECTION 2. IC 36-4-3-3.6 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2013]: **Sec. 3.6. (a) This section applies only to an annexation for**
10 **which the annexation ordinance is adopted after June 30, 2013.**

11 **(b) The effective date of an annexation may not be more than**
12 **one (1) year after the date the annexation ordinance is adopted.**

13 **(c) In any calendar year, a municipality may not annex territory**
14 **that would result in an increase in the municipality's total gross**
15 **assessed value of all taxable property by more than fifteen percent**
16 **(15%) in the ensuing calendar year (as compared to the total gross**
17 **assessed value of the municipality before the effective date of the**
18 **annexation ordinance) regardless of whether the increase in total**
19 **gross assessed value results from one (1) annexation or more than**
20 **one (1) annexation.**

21 SECTION 3. IC 36-4-3-8 IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2013]: **Sec. 8. (a) This section does not apply**
23 **to an ordinance adopted under section 5 or 5.1 of this chapter.**

24 (b) An ordinance adopted under section 3 or 4 of this chapter must
25 include terms and conditions fairly calculated to make the annexation
26 equitable to the property owners and residents of the municipality and
27 the annexed territory. The terms and conditions may include **the**
28 **following:**

29 (1) Postponing the effective date of the annexation for not more
30 than three (3) years. **and This subdivision expires July 1, 2013.**

31 (2) Establishing equitable provisions for the future management
32 and improvement of the annexed territory and for the rendering of
33 needed services.

34 (c) This subsection applies to territory sought to be annexed that
35 meets all of the following requirements:

36 (1) The resident population density of the territory is at least three
37 (3) persons per acre.

38 (2) The territory is subdivided or is parceled through separate
39 ownerships into lots or parcels such that at least sixty percent
40 (60%) of the total number of lots and parcels are not more than
41 one (1) acre.

42 This subsection does not apply to an ordinance annexing territory

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1 described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The
 2 ordinance must include terms and conditions impounding in a special
 3 fund all of the municipal property taxes imposed on the annexed
 4 territory after the annexation takes effect that are not used to meet the
 5 basic services described in section 13(d)(4) and 13(d)(5) of this chapter
 6 for a period of at least three (3) years. The impounded property taxes
 7 must be used to provide additional services that were not specified in
 8 the plan of annexation. The impounded property taxes in the fund shall
 9 be expended as set forth in this section, not later than five (5) years
 10 after the annexation becomes effective.

11 SECTION 4. 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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- 1 plan must show the following:
- 2 (1) The cost estimates of planned services to be furnished to the
- 3 territory to be annexed. The plan must present itemized estimated
- 4 costs for each municipal department or agency.
- 5 (2) The method or methods of financing the planned services. The
- 6 plan must explain how specific and detailed expenses will be
- 7 funded and must indicate the taxes, grants, and other funding to
- 8 be used.
- 9 (3) The plan for the organization and extension of services. The
- 10 plan must detail the specific services that will be provided and the
- 11 dates the services will begin.
- 12 (4) That planned services of a noncapital nature, including police
- 13 protection, fire protection, street and road maintenance, and other
- 14 noncapital services normally provided within the corporate
- 15 boundaries, will be provided to the annexed territory within one
- 16 (1) year after the effective date of annexation and that they will be
- 17 provided in a manner equivalent in standard and scope to those
- 18 noncapital services provided to areas within the corporate
- 19 boundaries regardless of similar topography, patterns of land use,
- 20 and population density.
- 21 (5) That services of a capital improvement nature, including street
- 22 construction, street lighting, sewer facilities, water facilities, and
- 23 stormwater drainage facilities, will be provided to the annexed
- 24 territory within three (3) years after the effective date of the
- 25 annexation in the same manner as those services are provided to
- 26 areas within the corporate boundaries, regardless of similar
- 27 topography, patterns of land use, and population density, and in
- 28 a manner consistent with federal, state, and local laws,
- 29 procedures, and planning criteria.
- 30 (e) At the hearing under section 12 of this chapter, the court shall do
- 31 the following:
- 32 (1) Consider evidence on the conditions listed in subdivision (2).
- 33 (2) Order a proposed annexation not to take place if the court
- 34 finds that all of the conditions set forth in clauses (A) through ~~(D)~~
- 35 **(E)** and, if applicable, clause ~~(E)~~ **(F)** exist in the territory
- 36 proposed to be annexed:
- 37 (A) The following services are adequately furnished by a
- 38 provider other than the municipality seeking the annexation:
- 39 (i) Police and fire protection.
- 40 (ii) Street and road maintenance.
- 41 (B) The annexation will have a significant financial impact on
- 42 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 for which the**
13 **annexation ordinance was adopted after June 30, 2013. All**
14 **annexations by the municipality during the calendar year**
15 **will result in an increase in the total gross assessed value of**
16 **all taxable property of the municipality in the ensuing**
17 **calendar year (as compared to the total gross assessed**
18 **value of the municipality before the effective date of the**
19 **annexation ordinance) by more than fifteen percent (15%).**

20 ~~(E)~~ (F) This clause applies only to an annexation in which
21 eighty percent (80%) of the boundary of the territory proposed
22 to be annexed is contiguous to the municipality and the
23 territory consists of not more than one hundred (100) parcels.
24 At least seventy-five percent (75%) of the owners of land in
25 the territory proposed to be annexed oppose the annexation as
26 determined under section 11(b) of this chapter.

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

- 32 (1) within the three (3) years preceding the date of the
33 introduction of the annexation ordinance; or
- 34 (2) under a contract in lieu of annexation entered into under
35 IC 36-4-3-21.

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

39 (g) This subsection applies only to cities located in a county having
40 a population of more than two hundred fifty thousand (250,000) but
41 less than two hundred seventy thousand (270,000). However, this
42 subsection does not apply if on April 1, 1993, the entire boundary of

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1 the territory that is proposed to be annexed was contiguous to territory
 2 that was within the boundaries of one (1) or more municipalities. At the
 3 hearing under section 12 of this chapter, the court shall do the
 4 following:

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

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

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

11 (i) Police and fire protection.

12 (ii) Street and road maintenance.

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

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

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

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

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

23 (h) The most recent:

24 (1) federal decennial census;

25 (2) federal special census;

26 (3) special tabulation; or

27 (4) corrected population count;

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

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 376, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 376 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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