



Reprinted
February 26, 2014

ENGROSSED HOUSE BILL No. 1099

DIGEST OF HB 1099 (Updated February 25, 2014 4:00 pm - DI 75)

Citations Affected: IC 36-4; IC 36-7.

Synopsis: Annexation of noncontiguous property. Allows a municipality to annex property that is not contiguous to the municipality and is occupied by: (1) a municipally owned or operated wastewater treatment facility or water treatment facility; or (2) a police station of the municipality. Provides that if a municipality annexes such territory, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance. Provides that certain municipalities may appeal an annexation on the basis that the annexed territory is not contiguous to the annexing municipality. Specifies that certain annexed territory may not be considered a part of the municipality for purposes of annexing additional territory and may not be considered a part of the corporate boundaries of the municipality for certain purposes under zoning laws.

Effective: Upon passage; July 1, 2014.

Niemeyer

(SENATE SPONSOR — CHARBONNEAU)

January 9, 2014, read first time and referred to Committee on Local Government.
January 23, 2014, reported — Do Pass.
January 29, 2014, read second time, amended, ordered engrossed.
January 30, 2014, engrossed. Read third time, passed. Yeas 93, nays 1.
January 31, 2014, re-engrossed.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Local Government.
February 20, 2014, amended, reported favorably — Do Pass.
February 25, 2014, read second time, amended, ordered engrossed.

EH 1099—LS 6344/DI 87



Reprinted
February 26, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1099

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 36-4-3-4, AS AMENDED BY P.L.119-2012,
2 SECTION 185, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The legislative body of a
4 municipality may, by ordinance, annex any of the following:

5 (1) Territory that is contiguous to the municipality.

6 (2) Territory that is not contiguous to the municipality and is
7 occupied by a municipally owned or operated **as either of the**
8 **following:**

9 (A) An airport or landing field.

10 (B) A wastewater treatment facility or water treatment
11 facility. After a municipality annexes territory under this
12 clause, the municipality may annex additional territory to
13 enlarge the territory for the use of the wastewater
14 treatment facility or water treatment facility only if the
15 county legislative body approves that use of the additional
16 territory by ordinance.

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1 (3) Territory that is not contiguous to the municipality but is
2 found by the legislative body to be occupied by:

3 (A) a municipally owned or regulated sanitary landfill, golf
4 course, or hospital; or

5 (B) a police station of the municipality.

6 However, if territory annexed under ~~this subsection~~ **subdivision (2) or**
7 **(3)** ceases to be used as a ~~municipally owned or regulated sanitary~~
8 ~~landfill, golf course, or hospital~~ **for the purpose for which the**
9 **territory was annexed** for at least one (1) year, the territory reverts to
10 the jurisdiction of the unit having jurisdiction before the annexation if
11 the unit that had jurisdiction over the territory still exists. If the unit no
12 longer exists, the territory reverts to the jurisdiction of the unit that
13 would currently have jurisdiction over the territory if the annexation
14 had not occurred. The clerk of the municipality shall notify the offices
15 required to receive notice of a disannexation under section 19 of this
16 chapter when the territory reverts to the jurisdiction of the unit having
17 jurisdiction before the annexation. **Territory that is annexed under**
18 **subdivision (2) (including territory that is enlarged under**
19 **subdivision (2)(B) for the use of the wastewater treatment facility**
20 **or water treatment facility) or subdivision (3) may not be**
21 **considered a part of the municipality for purposes of annexing**
22 **additional territory.**

23 (b) This subsection applies to municipalities in a county having a
24 population of:

25 (1) more than seventy thousand fifty (70,050) but less than
26 seventy-one thousand (71,000);

27 (2) more than seventy-five thousand (75,000) but less than
28 seventy-seven thousand (77,000);

29 (3) more than seventy-one thousand (71,000) but less than
30 seventy-five thousand (75,000);

31 (4) more than forty-seven thousand (47,000) but less than
32 forty-seven thousand five hundred (47,500);

33 (5) more than thirty-eight thousand five hundred (38,500) but less
34 than thirty-nine thousand (39,000);

35 (6) more than thirty-seven thousand (37,000) but less than
36 thirty-seven thousand one hundred twenty-five (37,125);

37 (7) more than thirty-three thousand three hundred (33,300) but
38 less than thirty-three thousand five hundred (33,500);

39 (8) more than twenty-three thousand three hundred (23,300) but
40 less than twenty-four thousand (24,000);

41 (9) more than one hundred eighty-five thousand (185,000) but
42 less than two hundred fifty thousand (250,000);



1 (10) more than two hundred fifty thousand (250,000) but less than
2 two hundred seventy thousand (270,000); or

3 (11) more than thirty-two thousand five hundred (32,500) but less
4 than thirty-three thousand (33,000).

5 Except as provided in subsection (c), the legislative body of a
6 municipality to which this subsection applies may, by ordinance, annex
7 territory that is not contiguous to the municipality, has its entire area
8 not more than two (2) miles from the municipality's boundary, is to be
9 used for an industrial park containing one (1) or more businesses, and
10 is either owned by the municipality or by a property owner who
11 consents to the annexation. However, if territory annexed under this
12 subsection is not used as an industrial park within five (5) years after
13 the date of passage of the annexation ordinance, or if the territory
14 ceases to be used as an industrial park for at least one (1) year, the
15 territory reverts to the jurisdiction of the unit having jurisdiction before
16 the annexation if the unit that had jurisdiction over the territory still
17 exists. If the unit no longer exists, the territory reverts to the
18 jurisdiction of the unit that would currently have jurisdiction over the
19 territory if the annexation had not occurred. The clerk of the
20 municipality shall notify the offices entitled to receive notice of a
21 disannexation under section 19 of this chapter when the territory
22 reverts to the jurisdiction of the unit having jurisdiction before the
23 annexation.

24 (c) A city in a county with a population of more than two hundred
25 fifty thousand (250,000) but less than two hundred seventy thousand
26 (270,000) may not annex territory as prescribed in subsection (b) until
27 the territory is zoned by the county for industrial purposes.

28 (d) Notwithstanding any other law, territory that is annexed under
29 subsection (b) or (h) is not considered a part of the municipality for the
30 purposes of:

31 (1) annexing additional territory:

32 (A) in a county that is not described by clause (B); or

33 (B) in a county having a population of more than two hundred
34 fifty thousand (250,000) but less than two hundred seventy
35 thousand (270,000), unless the boundaries of the
36 noncontiguous territory become contiguous to the city, as
37 allowed by Indiana law;

38 (2) expanding the municipality's extraterritorial jurisdictional
39 area; or

40 (3) changing an assigned service area under IC 8-1-2.3-6(1).

41 (e) As used in this section, "airport" and "landing field" have the
42 meanings prescribed by IC 8-22-1.



1 (f) As used in this section, "hospital" has the meaning prescribed by
2 IC 16-18-2-179(b).

3 (g) An ordinance adopted under this section must assign the
4 territory annexed by the ordinance to at least one (1) municipal
5 legislative body district.

6 (h) This subsection applies to a city having a population of more
7 than twenty-nine thousand nine hundred (29,900) but less than
8 thirty-one thousand (31,000). The city legislative body may, by
9 ordinance, annex territory that:

10 (1) is not contiguous to the city;

11 (2) has its entire area not more than eight (8) miles from the city's
12 boundary;

13 (3) does not extend more than:

14 (A) one and one-half (1 1/2) miles to the west;

15 (B) three-fourths (3/4) mile to the east;

16 (C) one-half (1/2) mile to the north; or

17 (D) one-half (1/2) mile to the south;

18 of an interchange of an interstate highway (as designated by the
19 federal highway authorities) and a state highway (as designated
20 by the state highway authorities); and

21 (4) is owned by the city or by a property owner that consents to
22 the annexation.

23 SECTION 2. IC 36-4-3-15.5, AS AMENDED BY P.L.113-2010,
24 SECTION 118, IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE UPON PASSAGE]: Sec. 15.5. (a) Except as provided in
26 subsection (b):

27 (1) an owner of land within one-half (1/2) mile of territory
28 proposed to be annexed under this chapter; **or**

29 (2) **a municipality located in the same county as the territory**
30 **proposed to be annexed;**

31 may, not later than sixty (60) days after the publication of the
32 annexation ordinance, appeal that annexation to a circuit court or
33 superior court of a county in which the annexed territory is located. The
34 complaint must state that the reason the annexation should not take
35 place is that the territory sought to be annexed is not contiguous to the
36 annexing municipality.

37 (b) This subsection applies to an annexation initiated by property
38 owners under section 5.1 of this chapter in which all property owners
39 within the area to be annexed petition the municipality to be annexed.
40 **Either of the following may appeal that annexation to a circuit**
41 **court or superior court of a county in which the annexed territory**
42 **is located:**



1 (1) An owner of land within one-half (1/2) mile of the territory
2 proposed to be annexed under this chapter. ~~may;~~

3 (2) **A municipality located in the same county as the territory**
4 **proposed to be annexed.**

5 **An appeal under this subsection must be filed** not later than thirty
6 (30) days after the publication of the annexation ordinance. ~~appeal that~~
7 ~~annexation to a circuit court or superior court of a county in which the~~
8 ~~annexed territory is located.~~ The complaint must state that the reason
9 the annexation should not take place is that the territory sought to be
10 annexed is not contiguous to the annexing municipality.

11 (c) Upon the determination of the court that the complaint is
12 sufficient, the judge shall fix a time for a hearing to be held not later
13 than sixty (60) days after the determination. Notice of the proceedings
14 shall be served by summons upon the proper officers of the annexing
15 municipality. The municipality shall become a defendant in the cause
16 and be required to appear and answer. The judge of the circuit or
17 superior court shall, upon the date fixed, proceed to hear and determine
18 the appeal without a jury, and shall, without delay, give judgment upon
19 the question of the annexation according to the evidence introduced by
20 the parties. If the evidence establishes that the territory sought to be
21 annexed is contiguous to the annexing municipality, the court shall
22 deny the appeal and dismiss the proceeding. If the evidence does not
23 establish the foregoing factor, the court shall issue an order to prevent
24 the proposed annexation from taking effect. The laws providing for
25 change of venue from the county do not apply, but changes of venue
26 from the judge may be had. Costs follow judgment. Pending the appeal,
27 and during the time within which the appeal may be taken, the territory
28 sought to be annexed is not a part of the annexing municipality.

29 (d) If the court enters a judgment in favor of the municipality, the
30 annexation may not take effect during the year preceding a year in
31 which a federal decennial census is conducted. An annexation that
32 would otherwise take effect during the year preceding a year in which
33 a federal decennial census is conducted takes effect January 1 of the
34 year in which a federal decennial census is conducted.

35 SECTION 3. IC 36-4-3-15.7 IS ADDED TO THE INDIANA CODE
36 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
37 **UPON PASSAGE]: Sec. 15.7. A municipality located in the same**
38 **county as the territory to be annexed may appeal an annexation**
39 **under section 15.5(a)(2) or 15.5(b)(2) of this chapter if:**

40 (1) **the annexation was pending on January 1, 2014; and**

41 (2) **the municipality files the appeal not later than sixty (60)**
42 **days after publication of the annexation ordinance.**



1 SECTION 4. IC 36-7-4-205, AS AMENDED BY P.L.172-2011,
 2 SECTION 143, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2014]: Sec. 205. (a) ADVISORY. A municipal
 4 plan commission shall adopt a comprehensive plan, as provided for
 5 under the 500 series of the advisory planning law, for the development
 6 of the municipality. For comprehensive plans adopted after July 1,
 7 1999, if:

8 (1) the municipality provides municipal services to the contiguous
 9 unincorporated area; or

10 (2) the municipal plan commission obtains the approval of the
 11 county legislative body of each affected county;

12 the municipal plan commission may provide in the comprehensive plan
 13 for the development of the contiguous unincorporated area, designated
 14 by the commission, that is outside the corporate boundaries of the
 15 municipality, and that, in the judgment of the commission, bears
 16 reasonable relation to the development of the municipality. For
 17 purposes of this section, participation of a municipality in a fire
 18 protection territory established under IC 36-8-19 that includes
 19 unincorporated areas contiguous to the municipality may not be treated
 20 as providing municipal services to the contiguous unincorporated areas.

21 (b) ADVISORY. Except as limited by the boundaries of
 22 unincorporated areas subject to the jurisdiction of other municipal plan
 23 commissions, an area designated under this section may include any
 24 part of the contiguous unincorporated area within two (2) miles from
 25 the corporate boundaries of the municipality. ~~If~~ However, **the**
 26 **following applies to the designation of an area under this section:**

27 **(1) If** the corporate boundaries of the municipality or the
 28 boundaries of that contiguous unincorporated area include any
 29 part of the public waters or shoreline of a lake (which lies wholly
 30 within Indiana), the designated area may also include:

31 ~~(1)~~ **(A)** any part of those public waters and shoreline of the
 32 lake; and

33 ~~(2)~~ **(B)** any land area within two thousand five hundred (2,500)
 34 feet from that shoreline.

35 **(2) This subdivision applies to a municipality that annexes**
 36 **noncontiguous territory under IC 36-4-3-4(a)(2) or**
 37 **IC 36-4-3-4(a)(3). The boundaries of the noncontiguous**
 38 **territory (including territory that is enlarged under**
 39 **subdivision IC 36-4-3-4(a)(2)(B) for the use of the wastewater**
 40 **treatment facility or water treatment facility) may not be**
 41 **considered a part of the corporate boundaries of the**
 42 **municipality for purposes of designating an area under this**



1 **section.**

2 (c) ADVISORY. Before exercising their rights, powers, and duties
3 of the advisory planning law with respect to an area designated under
4 this section, a municipal plan commission must file, with the recorder
5 of the county in which the municipality is located, a description or map
6 defining the limits of that area. If the commission revises the limits, it
7 shall file, with the recorder, a revised description or map defining those
8 revised limits.

9 (d) ADVISORY. If any part of the contiguous unincorporated area
10 within the potential jurisdiction of a municipal plan commission is also
11 within the potential jurisdiction of another municipal plan commission,
12 the first municipal plan commission may exercise territorial jurisdiction
13 over that part of the area within the potential jurisdiction of both
14 municipal plan commissions that equals the product obtained by
15 multiplying a fraction, the numerator of which is the area within the
16 corporate boundaries of that municipality and the denominator of
17 which is the total area within the corporate boundaries of both
18 municipalities times the area within the potential jurisdiction of both
19 municipal plan commissions. Furthermore, this commission may
20 exercise territorial jurisdiction within those boundaries, enclosing an
21 area reasonably compact and regular in shape, that the municipal plan
22 commission first acting designates.

23 (e) ADVISORY. If the legislative body of a county adopts a
24 comprehensive plan and ordinance covering the unincorporated areas
25 of the county, a municipal plan commission may not exercise
26 jurisdiction, as provided in this section, over any part of that
27 unincorporated area unless it is authorized by ordinance of the
28 legislative body of the county. This ordinance may be initiated by the
29 county legislative body or by petition duly signed and presented to the
30 county auditor by:

- 31 (1) not less than fifty (50) property owners residing in the area
32 involved in the petition;
33 (2) the county plan commission; or
34 (3) the municipal plan commission.

35 Before final action on the ordinance by the county legislative body, the
36 county plan commission must hold an advertised public hearing as
37 required for other actions of the county plan commission under the
38 advisory planning law. Upon the passage of the ordinance by the
39 county legislative body and the subsequent acceptance of jurisdiction
40 by the municipal plan commission, the municipal plan commission
41 shall exercise the same rights, powers, and duties conferred in this
42 section exclusively with respect to the contiguous unincorporated area.



1 The jurisdiction of a municipal plan commission, as authorized under
 2 this subsection, may be terminated by ordinance at the discretion of the
 3 legislative body of the county, but only if the county has adopted a
 4 comprehensive plan for that area that is as comprehensive in scope and
 5 subject matter as that in effect by municipal ordinance.

6 (f) ADVISORY. Each municipal plan commission in a municipality
 7 located in a county having:

8 (1) a population of less than ninety-five thousand (95,000); and

9 (2) a county plan commission that has adopted, in accord with the
 10 advisory planning law, a comprehensive plan and ordinance
 11 covering the unincorporated areas of the county;

12 may, at any time, after filing notice with the county recorder and the
 13 county plan commission, exercise or reject territorial jurisdiction over
 14 any part of the area within two (2) miles of the corporate boundaries of
 15 that municipality and within that county, whether or not that
 16 commission has previously exercised that jurisdiction, if the
 17 municipality is providing municipal services to the area. Within sixty
 18 (60) days after receipt of that notice, the county plan commission and
 19 the county legislative body shall have the county comprehensive plan
 20 and ordinance revised to reflect the decision of the municipal plan
 21 commission exercising the option provided for in this subsection. If the
 22 municipality is not providing municipal services to the area, the
 23 municipal plan commission must obtain the approval of the county
 24 legislative body of each affected county before exercising jurisdiction.

25 (g) AREA. Wherever in the area planning law authority is conferred
 26 to establish a comprehensive plan or an ordinance for its enforcement,
 27 the authority applies everywhere:

28 (1) within the county that is outside the municipalities; and

29 (2) within each participating municipality.

30 (h) ADVISORY—AREA. Whenever a new town is incorporated in
 31 a county having a county plan commission or an area plan commission,
 32 that plan commission and its board of zoning appeals shall continue to
 33 exercise territorial jurisdiction within the town until the effective date
 34 of a town ordinance:

35 (1) establishing an advisory plan commission under section
 36 202(a) of this chapter; or

37 (2) adopting the area planning law under section 202(b) or 204 of
 38 this chapter.

39 Beginning on that effective date, the planning and zoning functions of
 40 the town shall be exercised under the advisory planning law or area
 41 planning law, as the case may be.

42 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1099, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1099 as introduced.)

Committee Vote: Yeas 11, Nays 0

Representative Neese

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1099 be amended to read as follows:

Page 1, line 7, delete ":" and insert "**as either of the following:**".

Page 1, line 8, after "(A)" insert "**An**".

Page 1, line 8, delete "; or" and insert ".".

Page 1, line 9, after "(B)" insert "**A**".

Page 1, line 10, after "facility." insert "**After a municipality annexes territory under this clause, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance.**".

Page 1, line 14, beginning with "However," begin a new line blocked left.

Page 1, line 14, strike "this subsection" and insert "**subdivision (2) or (3)**".

Page 1, line 15, strike "as a municipally owned or regulated sanitary landfill, golf".

Page 1, line 16, strike "course, or hospital" and insert "**for the purpose for which the territory was annexed**".

Page 2, line 9, after "annexation." insert "**Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.**".

Page 4, after line 9, begin a new paragraph and insert:

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"SECTION 2. IC 36-7-4-205, AS AMENDED BY P.L.172-2011, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 205. (a) ADVISORY. A municipal plan commission shall adopt a comprehensive plan, as provided for under the 500 series of the advisory planning law, for the development of the municipality. For comprehensive plans adopted after July 1, 1999, if:

- (1) the municipality provides municipal services to the contiguous unincorporated area; or
- (2) the municipal plan commission obtains the approval of the county legislative body of each affected county;

the municipal plan commission may provide in the comprehensive plan for the development of the contiguous unincorporated area, designated by the commission, that is outside the corporate boundaries of the municipality, and that, in the judgment of the commission, bears reasonable relation to the development of the municipality. For purposes of this section, participation of a municipality in a fire protection territory established under IC 36-8-19 that includes unincorporated areas contiguous to the municipality may not be treated as providing municipal services to the contiguous unincorporated areas.

(b) ADVISORY. Except as limited by the boundaries of unincorporated areas subject to the jurisdiction of other municipal plan commissions, an area designated under this section may include any part of the contiguous unincorporated area within two (2) miles from the corporate boundaries of the municipality. ~~If~~ However, **the following applies to the designation of an area under this section:**

(1) If the corporate boundaries of the municipality or the boundaries of that contiguous unincorporated area include any part of the public waters or shoreline of a lake (which lies wholly within Indiana), the designated area may also include:

- ~~(1)~~ **(A)** any part of those public waters and shoreline of the lake; and
- ~~(2)~~ **(B)** any land area within two thousand five hundred (2,500) feet from that shoreline.

(2) This subdivision applies to a municipality that annexes noncontiguous territory under IC 36-4-3-4(a)(2) or IC 36-4-3-4(a)(3). The boundaries of the noncontiguous territory (including territory that is enlarged under subdivision IC 36-4-3-4(a)(2)(B) for the use of the wastewater treatment facility or water treatment facility) may not be considered a part of the corporate boundaries of the municipality for purposes of designating an area under this



section.

(c) **ADVISORY.** Before exercising their rights, powers, and duties of the advisory planning law with respect to an area designated under this section, a municipal plan commission must file, with the recorder of the county in which the municipality is located, a description or map defining the limits of that area. If the commission revises the limits, it shall file, with the recorder, a revised description or map defining those revised limits.

(d) **ADVISORY.** If any part of the contiguous unincorporated area within the potential jurisdiction of a municipal plan commission is also within the potential jurisdiction of another municipal plan commission, the first municipal plan commission may exercise territorial jurisdiction over that part of the area within the potential jurisdiction of both municipal plan commissions that equals the product obtained by multiplying a fraction, the numerator of which is the area within the corporate boundaries of that municipality and the denominator of which is the total area within the corporate boundaries of both municipalities times the area within the potential jurisdiction of both municipal plan commissions. Furthermore, this commission may exercise territorial jurisdiction within those boundaries, enclosing an area reasonably compact and regular in shape, that the municipal plan commission first acting designates.

(e) **ADVISORY.** If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:

- (1) not less than fifty (50) property owners residing in the area involved in the petition;
- (2) the county plan commission; or
- (3) the municipal plan commission.

Before final action on the ordinance by the county legislative body, the county plan commission must hold an advertised public hearing as required for other actions of the county plan commission under the advisory planning law. Upon the passage of the ordinance by the county legislative body and the subsequent acceptance of jurisdiction by the municipal plan commission, the municipal plan commission shall exercise the same rights, powers, and duties conferred in this section exclusively with respect to the contiguous unincorporated area.



The jurisdiction of a municipal plan commission, as authorized under this subsection, may be terminated by ordinance at the discretion of the legislative body of the county, but only if the county has adopted a comprehensive plan for that area that is as comprehensive in scope and subject matter as that in effect by municipal ordinance.

(f) **ADVISORY.** Each municipal plan commission in a municipality located in a county having:

- (1) a population of less than ninety-five thousand (95,000); and
- (2) a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county;

may, at any time, after filing notice with the county recorder and the county plan commission, exercise or reject territorial jurisdiction over any part of the area within two (2) miles of the corporate boundaries of that municipality and within that county, whether or not that commission has previously exercised that jurisdiction, if the municipality is providing municipal services to the area. Within sixty (60) days after receipt of that notice, the county plan commission and the county legislative body shall have the county comprehensive plan and ordinance revised to reflect the decision of the municipal plan commission exercising the option provided for in this subsection. If the municipality is not providing municipal services to the area, the municipal plan commission must obtain the approval of the county legislative body of each affected county before exercising jurisdiction.

(g) **AREA.** Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:

- (1) within the county that is outside the municipalities; and
- (2) within each participating municipality.

(h) **ADVISORY—AREA.** Whenever a new town is incorporated in a county having a county plan commission or an area plan commission, that plan commission and its board of zoning appeals shall continue to exercise territorial jurisdiction within the town until the effective date of a town ordinance:

- (1) establishing an advisory plan commission under section 202(a) of this chapter; or
- (2) adopting the area planning law under section 202(b) or 204 of this chapter.



Beginning on that effective date, the planning and zoning functions of the town shall be exercised under the advisory planning law or area planning law, as the case may be."

Renumber all SECTIONS consecutively.

(Reference is to HB 1099 as printed January 24, 2014.)

NIEMEYER

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1099, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, reset in roman ".".

Page 2, line 2, after "occupied by" insert ":

(A) "

Page 2, line 3, delete "." and insert "; or"

(B) a police station of the municipality."

and when so amended that said bill do pass.

(Reference is to HB 1099 Printer's Error as reprinted January 30, 2014.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 4, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 2. IC 36-4-3-15.5, AS AMENDED BY P.L.113-2010, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.5. (a) Except as provided in subsection (b):

(1) an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter; or

(2) a municipality located in the same county as the territory

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proposed to be annexed;

may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. **Either of the following may appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located:**

- (1) An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter. ~~may;~~
- (2) **A municipality located in the same county as the territory proposed to be annexed.**

An appeal under this subsection must be filed not later than thirty (30) days after the publication of the annexation ordinance. ~~appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located.~~ The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(d) If the court enters a judgment in favor of the municipality, the



annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

SECTION 3. IC 36-4-3-15.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.7. A municipality located in the same county as the territory to be annexed may appeal an annexation under section 15.5(a)(2) or 15.5(b)(2) of this chapter if:**

- (1) the annexation was pending on January 1, 2014; and**
- (2) the municipality files the appeal not later than sixty (60) days after publication of the annexation ordinance."**

Page 7, after line 21, begin a new paragraph and insert:
"SECTION 5. **An emergency is declared for this act.**"
Renumber all SECTIONS consecutively.

(Reference is to EHB 1099 as printed February 21, 2014.)

CHARBONNEAU

