

HOUSE BILL No. 1254

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3-3.7; IC 36-7-4-205.

Synopsis: Annexation of noncontiguous territory. Allows a municipality that meets certain requirements to annex noncontiguous property and annex a public highway that connects the municipality and the territory.

Effective: July 1, 2018.

Smith M

January 16, 2018, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1254

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 36-4-3-3.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]: **Sec. 3.7. (a) This section applies to a municipality, if at
4 least twenty percent (20%) of the municipality's land use planning
5 jurisdiction designated under IC 36-7-4-205 is included in a one
6 hundred (100) year flood plain.**
7 **(b) Notwithstanding section 1.5 of this chapter, but subject to
8 sections 9 and 9.1 of this chapter, a municipality may annex
9 territory that is:**
10 **(1) not contiguous to the municipality;**
11 **(2) located within two (2) miles from the corporate boundaries
12 of the municipality; and**
13 **(3) owned by:**
14 **(A) the municipality; or**
15 **(B) a property owner that consents to the annexation.**
16 **The annexed territory shall be considered a part of the**
17 **municipality for purposes of annexing additional territory.**



1 **(c) The municipality may annex a public highway, and the rights**
 2 **of way of the public highway, that connects the noncontiguous**
 3 **territory under subsection (b) and the municipality. Except as**
 4 **provided in subsection (d), the public highway and rights of way**
 5 **that are annexed may not be considered a part of the municipality**
 6 **for purposes of annexing additional territory.**

7 **(d) If the municipality's boundaries expand and the public**
 8 **highway and rights of way become contiguous to the municipal**
 9 **boundaries as set forth in section 1.5 of this chapter, that portion**
 10 **or length of the public highway and rights of way that becomes**
 11 **contiguous to the municipality shall be considered a part of the**
 12 **municipality for purposes of annexing additional territory.**

13 SECTION 2. IC 36-7-4-205, AS AMENDED BY P.L.207-2014,
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2018]: Sec. 205. (a) ADVISORY. A municipal plan
 16 commission shall adopt a comprehensive plan, as provided for under
 17 the 500 series of the advisory planning law, for the development of the
 18 municipality. For comprehensive plans adopted after July 1, 1999, if:

19 (1) the municipality provides municipal services to the contiguous
 20 unincorporated area; or

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

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

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

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

42 (A) any part of those public waters and shoreline of the lake;



1 and

2 (B) any land area within two thousand five hundred (2,500)
3 feet from that shoreline.

4 (2) This subdivision applies to a municipality that annexes
5 noncontiguous territory under IC 36-4-3-4(a)(2), or
6 IC 36-4-3-4(a)(3), or **IC 36-4-3-3.7**. The boundaries of the
7 noncontiguous territory (including territory that is enlarged under
8 subdivision IC 36-4-3-4(a)(2)(B) for the use of the wastewater
9 treatment facility or water treatment facility) may not be
10 considered a part of the corporate boundaries of the municipality
11 for purposes of designating an area under this section.

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

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

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

41 (1) not less than fifty (50) property owners residing in the area
42 involved in the petition;



1 (2) the county plan commission; or
 2 (3) the municipal plan commission.
 3 Before final action on the ordinance by the county legislative body, the
 4 county plan commission must hold an advertised public hearing as
 5 required for other actions of the county plan commission under the
 6 advisory planning law. Upon the passage of the ordinance by the
 7 county legislative body and the subsequent acceptance of jurisdiction
 8 by the municipal plan commission, the municipal plan commission
 9 shall exercise the same rights, powers, and duties conferred in this
 10 section exclusively with respect to the contiguous unincorporated area.
 11 The jurisdiction of a municipal plan commission, as authorized under
 12 this subsection, may be terminated by ordinance at the discretion of the
 13 legislative body of the county, but only if the county has adopted a
 14 comprehensive plan for that area that is as comprehensive in scope and
 15 subject matter as that in effect by municipal ordinance.
 16 (f) ADVISORY. Each municipal plan commission in a municipality
 17 located in a county having:
 18 (1) a population of less than ninety-five thousand (95,000); and
 19 (2) a county plan commission that has adopted, in accord with the
 20 advisory planning law, a comprehensive plan and ordinance
 21 covering the unincorporated areas of the county;
 22 may, at any time, after filing notice with the county recorder and the
 23 county plan commission, exercise or reject territorial jurisdiction over
 24 any part of the area within two (2) miles of the corporate boundaries of
 25 that municipality and within that county, whether or not that
 26 commission has previously exercised that jurisdiction, if the
 27 municipality is providing municipal services to the area. Within sixty
 28 (60) days after receipt of that notice, the county plan commission and
 29 the county legislative body shall have the county comprehensive plan
 30 and ordinance revised to reflect the decision of the municipal plan
 31 commission exercising the option provided for in this subsection. If the
 32 municipality is not providing municipal services to the area, the
 33 municipal plan commission must obtain the approval of the county
 34 legislative body of each affected county before exercising jurisdiction.
 35 (g) AREA. Wherever in the area planning law authority is conferred
 36 to establish a comprehensive plan or an ordinance for its enforcement,
 37 the authority applies everywhere:
 38 (1) within the county that is outside the municipalities; and
 39 (2) within each participating municipality.
 40 (h) ADVISORY—AREA. Whenever a new town is incorporated in
 41 a county having a county plan commission or an area plan commission,
 42 that plan commission and its board of zoning appeals shall continue to



1 exercise territorial jurisdiction within the town until the effective date
2 of a town ordinance:
3 (1) establishing an advisory plan commission under section
4 202(a) of this chapter; or
5 (2) adopting the area planning law under section 202(b) or 204 of
6 this chapter.
7 Beginning on that effective date, the planning and zoning functions of
8 the town shall be exercised under the advisory planning law or area
9 planning law, as the case may be.

