



Reprinted  
February 20, 2015

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## HOUSE BILL No. 1561

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DIGEST OF HB 1561 (Updated February 19, 2015 3:43 pm - DI 87)

**Citations Affected:** IC 36-1; IC 36-4; IC 36-7.

**Synopsis:** Annexation and service agreements. Provides the following for annexations for which an annexation ordinance is adopted after June 30, 2015: (1) Provides that the annexation fiscal plan is similar to plans required for local government mergers and reorganizations. (2) Prohibits the fiscal plan from being amended after a remonstrance petition is filed, unless the amendment is consented to by remonstrators. (3) Requires a municipality to conduct an outreach program to inform citizens about a proposed annexation. (4) Allows remonstrators who prevail at a remonstrance hearing to recover expenses incurred in filing the remonstrance, including appeal costs and reasonable attorney's fees, in an amount not to exceed \$40,000. (5) Provides the circumstances under which a public highway or rights of way of a public highway that is annexed may be considered contiguous and may be used for further annexations. (6) Allows a municipality to exempt property from property tax liability for municipal purposes if the property is used for agricultural purposes (instead of classified as agricultural for zoning purposes). (7) Allows a municipality to annex noncontiguous territory occupied by a commercial or industrial economic development project. (8) Provides that a petition for remonstrance or to request annexation may be signed by at least 51% of the owners of land in the territory or 60% of the total assessed value  
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**Effective:** July 1, 2015.

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## Negele, Mahan, Truitt

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January 20, 2015, read first time and referred to Committee on Government and Regulatory Reform.

February 17, 2015, amended, reported — Do Pass.

February 19, 2015, read second time, amended, ordered engrossed.

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Digest Continued

of the land for property tax purposes. (9) Requires a municipality to give notice of an annexation hearing to a landowner whose agricultural property is exempted from property taxes for municipal purposes. Removes an annexation procedure applicable only to a municipality in St. Joseph County. Provides common names for the different annexation procedures. Provides that a county has the responsibility and authority to provide police protection, fire protection, water, sewer, and street and road maintenance to the unincorporated area of the county unless the county and municipality enter into an interlocal agreement that authorizes the municipality to provide services. Provides that police and fire services that are provided under written mutual aid agreements executed before July 1, 2015, or a written agreement for services provided by a municipality to an unincorporated area are unaffected after June 30, 2015, if the municipality initially provided the services before July 1, 2015 and the municipality files the written agreement with the county executive before January 1, 2016. Provides that a municipality under the advisory planning law may still exercise planning and zoning in the two mile area outside the municipality.



Reprinted  
February 20, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1561

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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 36-1-3-9 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The area inside the  
3 boundaries of a county comprises its territorial jurisdiction. However,  
4 a municipality has exclusive jurisdiction over bridges (subject to  
5 IC 8-16-3-1), streets, alleys, sidewalks, watercourses, sewers, drains,  
6 and public grounds inside its corporate boundaries, unless a statute  
7 provides otherwise.  
8 (b) The area inside the corporate boundaries of a municipality  
9 comprises its territorial jurisdiction, except to the extent that a statute  
10 expressly authorizes the municipality to exercise a power in areas  
11 outside its corporate boundaries.  
12 (c) Whenever a statute authorizes a municipality to exercise a power  
13 in areas outside its corporate boundaries, the power may be exercised  
14 **only as follows:**

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1 (1) Inside the corporate boundaries of another municipality, only  
 2 if both municipalities, by ordinance, enter into an agreement  
 3 under IC 36-1-7. ~~or~~

4 (2) **Except as provided in subdivision (3)**, in a county, other than  
 5 the county in which the municipal hall is located, but not inside  
 6 the corporate boundaries of another municipality, only if both the  
 7 municipality and the other county, by ordinance, enter into an  
 8 agreement under IC 36-1-7.

9 **(3) This subdivision does not affect or invalidate a written**  
 10 **mutual aid agreement for police protection or fire protection**  
 11 **executed before July 1, 2015, or a written agreement for**  
 12 **services provided by a municipality to an unincorporated area**  
 13 **after June 30, 2015, if the services were initially provided by**  
 14 **the municipality before July 1, 2015, and the municipality files**  
 15 **the written agreement with the county executive before**  
 16 **January 1, 2016. This subdivision applies whenever a statute**  
 17 **authorizes a municipality to provide the following services in**  
 18 **areas outside the municipality's corporate boundaries, but not**  
 19 **inside the corporate boundaries of another municipality:**

20 (A) Police protection.

21 (B) Fire protection.

22 (C) Street and road maintenance.

23 (D) Sewer service.

24 (E) Water service.

25 **Notwithstanding any other law, a municipality may provide**  
 26 **municipal services in the unincorporated area of a county**  
 27 **only if both the municipality and the county, by ordinance,**  
 28 **enter into an agreement under IC 36-1-7. In the absence of an**  
 29 **agreement under IC 36-1-7, the county shall provide the**  
 30 **services. This subdivision does not affect a municipality's**  
 31 **authority to exercise only planning and zoning jurisdiction**  
 32 **over the area within two (2) miles of the corporate boundaries**  
 33 **of the municipality if the requirements of IC 36-7-4-205 are**  
 34 **met.**

35 (d) If the two (2) units involved under subsection (c) cannot reach  
 36 an agreement, either unit may petition the circuit or superior court of  
 37 the county to hear and determine the matters at issue. The clerk of the  
 38 court shall issue notice to the other unit as in other civil actions, and the  
 39 court shall hold the hearing without a jury. There may be a change of  
 40 venue from the judge but not from the county. The petitioning unit  
 41 shall pay the costs of the action.

42 SECTION 2. IC 36-4-3-1.2 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2015]: **Sec. 1.2. The annexation procedures may be referred to as  
3 follows:**

4 **(1) An annexation under section 5 of this chapter may be  
5 referred to as a landowner initiated annexation.**

6 **(2) An annexation under section 5.1 of this chapter may be  
7 referred to as a unanimous landowner initiated annexation.**

8 **(3) An annexation to which section 5 or 5.1 of this chapter  
9 does not apply may be referred to as a municipality initiated  
10 annexation.**

11 SECTION 3. IC 36-4-3-1.5 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a)** For purposes  
13 of this chapter, territory sought to be annexed may be considered  
14 "contiguous" only if at least one-eighth (1/8) of the aggregate external  
15 boundaries of the territory coincides with the boundaries of the  
16 annexing municipality. In determining if a territory is contiguous, a  
17 strip of land:

18 **(1) less than one hundred fifty (150) feet wide which connects the  
19 annexing municipality to the territory is not considered a part of  
20 the boundaries of either the municipality or the territory; or**

21 **(2) containing a public highway or rights of way of a public  
22 highway which connects the annexing municipality to  
23 noncontiguous territory is not considered a part of the  
24 boundaries of either the municipality or the territory unless  
25 the requirements of subsections (b)(1) or (b)(2) are met.**

26 **(b) Any public highway or rights of way of a public highway  
27 that is annexed by a municipality is not considered a part of the  
28 municipality for purposes of annexing additional territory unless  
29 one (1) of the following requirements is met:**

30 **(1) The municipality obtains the written consent of all owners  
31 of any property:**

32 **(A) adjoining the entire length of the public highway and  
33 rights of way of the public highway; and**

34 **(B) located outside the corporate boundaries of the  
35 annexing municipality;**

36 **to annex additional territory. A waiver of the right of  
37 remonstrance executed by a property owner or a successor in  
38 title of the property owner for sewer services or water  
39 services does not constitute written consent to annex  
40 additional territory.**

41 **(2) The entire length of the public highway or rights of way of  
42 the public highway is:**



- 1           (A) a part of the boundaries of the municipality; and  
 2           (B) adjacent to or contiguous to parcels of property that  
 3           are within the boundaries of the municipality.  
 4           (3) As part of one (1) annexation ordinance, the municipality  
 5           annexes:  
 6           (A) the public highway and rights of way of the public  
 7           highway; and  
 8           (B) all parcels of property that are adjacent to or  
 9           contiguous to the public highway or rights of way of the  
 10           public highway.  
 11           An annexation ordinance that uses a public highway or rights of  
 12           way of a public highway to annex additional territory without  
 13           satisfying one (1) of the requirements of this subsection is void.  
 14           SECTION 4. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE  
 15           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16           1, 2015]: Sec. 1.7. (a) This section applies only to an annexation  
 17           ordinance adopted after June 30, 2015. This section does not apply  
 18           to an annexation under section 5.1 of this chapter.  
 19           (b) Not earlier than six (6) months before a municipality  
 20           introduces an annexation ordinance, the municipality shall conduct  
 21           an outreach program to inform citizens regarding the proposed  
 22           annexation. The outreach program must conduct at least six (6)  
 23           public information meetings regarding the proposed annexation.  
 24           The public information meetings must provide citizens with the  
 25           following information:  
 26           (1) Maps showing the proposed boundaries of the annexation  
 27           territory.  
 28           (2) Proposed plans for extension of capital and noncapital  
 29           services in the annexation territory, including proposed dates  
 30           of extension.  
 31           (3) Expected fiscal impact on taxpayers in the annexation  
 32           territory, including any increase in taxes and fees.  
 33           (4) Information regarding rezoning of landowners' property  
 34           as agricultural for purposes of receiving the tax exemption as  
 35           set forth in section 4.1 of this chapter.  
 36           (c) The municipality shall provide notice of the dates, times, and  
 37           locations of the outreach program meetings. The municipality shall  
 38           publish the notice under IC 5-3-1 of the meetings, including the  
 39           date, time, and location of the meetings, except that notice must be  
 40           published not later than thirty (30) days before the date of each  
 41           meeting. The municipality shall also send notice to each owner of  
 42           land within the annexation territory not later than thirty (30) days



1 before the date of the first meeting of the outreach program. The  
 2 notice to landowners shall be sent by mail or certified mail and  
 3 include the following information:

4 (1) The notice shall inform the landowner that the  
 5 municipality is proposing to annex territory that includes the  
 6 landowner's property.

7 (2) The municipality is conducting an outreach program for  
 8 the purpose of providing information to landowners and the  
 9 public regarding the proposed annexation.

10 (3) The date, time, and location of the meetings to be  
 11 conducted under the outreach program.

12 (d) The notice shall be sent to the address of the landowner as  
 13 listed on the tax duplicate. If the municipality provides evidence  
 14 that the notice was sent by certified mail, return receipt requested,  
 15 and in accordance with this section, it is not necessary that the  
 16 landowner accept receipt of the notice. If a remonstrance is filed  
 17 under section 11 of this chapter, the municipality shall file with the  
 18 court proof that notices were sent to landowners under this section  
 19 and proof of publication.

20 (e) The notice required under this section is in addition to any  
 21 notice required under sections 2.1 and 2.2 of this chapter.

22 SECTION 5. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010,  
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an  
 25 annexation under section 4(a)(2), 4(a)(3), 4(b), or 4(h) or ~~4.1~~ of this  
 26 chapter or an annexation described in section 5.1 of this chapter.

27 (b) Before a municipality may annex territory, the municipality shall  
 28 provide written notice of the hearing required under section 2.1 of this  
 29 chapter. Except as provided in subsection (f), the notice must be sent  
 30 by certified mail at least sixty (60) days before the date of the hearing  
 31 to each owner of real property, as shown on the county auditor's current  
 32 tax list, whose real property is located within the territory proposed to  
 33 be annexed.

34 (c) For purposes of an annexation of territory described in section  
 35 2.5 of this chapter, if the hearing required under section 2.1 of this  
 36 chapter is conducted after June 30, 2010, the notice required by this  
 37 section must also be sent to each owner of real property, as shown on  
 38 the county auditor's current tax list, whose real property is adjacent to  
 39 contiguous areas of rights-of-way of the public highway that are only  
 40 included in the annexation of territory by operation of IC 36-4-3-2.5 on  
 41 the side of the public highway that is not part of the annexed territory.

42 (d) The notice required by this section must include the following:



- 1 (1) A legal description of the real property proposed to be  
2 annexed.
- 3 (2) The date, time, location, and subject of the hearing.
- 4 (3) A map showing the current municipal boundaries and the  
5 proposed municipal boundaries.
- 6 (4) Current zoning classifications for the area proposed to be  
7 annexed and any proposed zoning changes for the area proposed  
8 to be annexed.
- 9 (5) A detailed summary of the fiscal plan, **if applicable**, described  
10 in section 13 of this chapter.
- 11 (6) The location where the public may inspect and copy the fiscal  
12 plan, **if applicable**.
- 13 (7) A statement that the municipality will provide a copy of the  
14 fiscal plan, **if applicable**, after the fiscal plan is adopted  
15 immediately to any landowner in the annexed territory who  
16 requests a copy.
- 17 (8) The name and telephone number of a representative of the  
18 municipality who may be contacted for further information.
- 19 (e) If the municipality complies with this section, the notice is not  
20 invalidated if the owner does not receive the notice.
- 21 (f) This subsection applies to an annexation under section 3 or 4 of  
22 this chapter in which all property owners within the area to be annexed  
23 provide written consent to the annexation. The written notice described  
24 in this section must be sent by certified mail not later than twenty (20)  
25 days before the date of the hearing to each owner of real property, as  
26 shown on the county auditor's current tax list, whose real property is  
27 located within the territory proposed to be annexed.
- 28 SECTION 6. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013,  
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2015]: Sec. 4.1. (a) A municipality may annex territory under  
31 this section only if the territory is contiguous to the municipality.
- 32 (b) **This subsection applies only to an annexation ordinance**  
33 **adopted before July 1, 2015.** Territory annexed under this section is  
34 exempt from all property tax liability under IC 6-1.1 for municipal  
35 purposes for all portions of the annexed territory that are classified for  
36 zoning purposes as agricultural and remain exempt from the property  
37 tax liability while the property's zoning classification remains  
38 agricultural.
- 39 (c) **This subsection applies only to an annexation ordinance**  
40 **adopted after June 30, 2015. Territory annexed under this section**  
41 **is exempt from all property tax liability under IC 6-1.1 for**  
42 **municipal purposes for all parts of the annexed territory that are**





1 **used for agricultural purposes and remains exempt from the**  
 2 **property tax liability while the property's use remains agricultural.**

3 ~~(c)~~ **(d)** There may not be a change in the zoning classification of  
 4 territory annexed under this section without the consent of the owner  
 5 of the annexed territory.

6 ~~(d)~~ **(e)** Territory annexed under this section may not be considered  
 7 a part of the municipality for purposes of annexing additional territory  
 8 under section 3 or 4 of this chapter. However, territory annexed under  
 9 this section shall be considered a part of the municipality for purposes  
 10 of annexing additional territory under section 5 or 5.1 of this chapter.

11 SECTION 7. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE  
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 13 1, 2015]: **Sec. 4.2. (a) As used in this section, "economic**  
 14 **development project" means any project that:**

15 **(1) a municipality determines will:**

16 **(A) promote significant opportunities for the gainful**  
 17 **employment of its citizens;**

18 **(B) attract a major new business enterprise to the**  
 19 **municipality; or**

20 **(C) retain or expand a significant business enterprise**  
 21 **within the municipality; and**

22 **(2) involves expenditures by the annexing municipality for any**  
 23 **of the following:**

24 **(A) Land acquisition, interests in land, site improvements,**  
 25 **infrastructure improvements, buildings, or structures.**

26 **(B) Rehabilitation, renovation, and enlargement of**  
 27 **buildings and structures.**

28 **(C) Machinery, equipment, furnishings, or facilities.**

29 **(D) Substance removal or remedial action.**

30 **(b) A municipality may annex noncontiguous territory that is**  
 31 **entirely occupied by an economic development project, only if all**  
 32 **of the following requirements are satisfied:**

33 **(1) The economic development project is developed by the**  
 34 **annexing municipality.**

35 **(2) The economic development project:**

36 **(A) only involves commercial or industrial use of land; and**

37 **(B) does not involve any residential use of land.**

38 **(3) The economic development project has its entire area not**  
 39 **more than one (1) mile from the annexing municipality's**  
 40 **boundary.**

41 **(4) The economic development project is annexed under**  
 42 **section 5.1 of this chapter.**



1           (c) **The annexation territory may not be considered a part of the**  
 2 **municipality for purposes of annexing additional territory. The**  
 3 **annexation ordinance and fiscal plan must include the basis for the**  
 4 **municipality's determination that the project is an economic**  
 5 **development project.**

6           (d) **If the economic development project that occupies territory**  
 7 **that is annexed in accordance with this section is not completed**  
 8 **within three (3) years after the date the annexation is effective, the**  
 9 **annexation territory reverts to the county. The clerk of the**  
 10 **municipality shall notify the offices required to receive notice of a**  
 11 **disannexation under section 19 of this chapter when the territory**  
 12 **reverts to the jurisdiction of the county.**

13           SECTION 8. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If the owners of land located  
 15 outside of but contiguous to a municipality want to have territory  
 16 containing that land annexed to the municipality, they may file with the  
 17 legislative body of the municipality a petition:

18           (1) signed by at least:

19           (A) fifty-one percent (51%) of the owners of land in the  
 20 territory sought to be annexed; or

21           (B) the owners of ~~seventy-five~~ **sixty** percent (~~75%~~) (**60%**) of  
 22 the total assessed value of the land for property tax purposes;  
 23 and

24           (2) requesting an ordinance annexing the area described in the  
 25 petition.

26           (b) The petition circulated by the landowners must include on each  
 27 page where signatures are affixed a heading that is substantially similar  
 28 to the following:

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

31           (c) ~~Except as provided in section 5.1 of this chapter,~~ If the  
 32 legislative body fails to pass the ordinance within one hundred fifty  
 33 (150) days after the date of filing of a petition under subsection (a), the  
 34 petitioners may file a duplicate copy of the petition in the circuit or  
 35 superior court of a county in which the territory is located, and shall  
 36 include a written statement of why the annexation should take place.  
 37 Notice of the proceedings, in the form of a summons, shall be served  
 38 on the municipality named in the petition. The municipality is the  
 39 defendant in the cause and shall appear and answer.

40           (d) The court shall hear and determine the petition without a jury,  
 41 and shall order the proposed annexation to take place only if the  
 42 evidence introduced by the parties establishes that:



- 1 (1) essential municipal services and facilities are not available to  
 2 the residents of the territory sought to be annexed;  
 3 (2) the municipality is physically and financially able to provide  
 4 municipal services to the territory sought to be annexed;  
 5 (3) the population density of the territory sought to be annexed is  
 6 at least three (3) persons per acre; and  
 7 (4) the territory sought to be annexed is contiguous to the  
 8 municipality.

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

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

15 SECTION 9. IC 36-4-3-5.1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) This section  
 17 applies to an annexation in which owners of land located outside but  
 18 contiguous to a municipality file a petition with the legislative body of  
 19 the municipality:

- 20 (1) requesting an ordinance annexing the area described in the  
 21 petition; and  
 22 (2) signed by one hundred percent (100%) of the landowners that  
 23 reside within the territory that is proposed to be annexed.

24 (b) Sections 2.1 and 2.2 of this chapter do not apply to an  
 25 annexation under this section.

26 (c) The petition circulated by the landowners must include on each  
 27 page where signatures are affixed a heading that is substantially similar  
 28 to the following:

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

31 (d) The municipality may:

- 32 (1) adopt an annexation ordinance annexing the territory; and  
 33 (2) adopt a fiscal plan and establish a definite policy by resolution  
 34 of the legislative body;

35 after the legislative body has held a public hearing on the proposed  
 36 annexation.

37 (e) The municipality may introduce and hold the public hearing on  
 38 the annexation ordinance not later than thirty (30) days after the  
 39 petition is filed with the legislative body. Notice of the public hearing  
 40 may be published one (1) time in accordance with IC 5-3-1 at least  
 41 twenty (20) days before the hearing. All interested parties must have  
 42 the opportunity to testify at the hearing as to the proposed annexation.



1 (f) The municipality may adopt the annexation ordinance not earlier  
2 than fourteen (14) days after the public hearing under subsection (e).

3 (g) A landowner may withdraw the landowner's signature from the  
4 petition not more than thirteen (13) days after the municipality adopts  
5 the fiscal plan by providing written notice to the office of the clerk of  
6 the municipality.

7 (h) If a landowner withdraws the landowner's signature, **the**  
8 **following occurs:**

9 (1) **Except as provided in subdivision (2),** the petition shall  
10 automatically be considered a voluntary petition that is filed with  
11 the legislative body under section 5 of this chapter, fourteen (14)  
12 days after the date the fiscal plan is adopted. All provisions  
13 applicable to a petition initiated under section 5 of this chapter  
14 apply to the petition.

15 (2) **If the petition is for annexation of an economic**  
16 **development project under section 4.2 of this chapter, the**  
17 **annexation ordinance is voided.**

18 (i) If the municipality does not adopt an annexation ordinance  
19 within sixty (60) days after the landowners file the petition with the  
20 legislative body, the landowners may file a duplicate petition with the  
21 circuit or superior court of a county in which the territory is located.  
22 The court shall determine whether the annexation shall take place as  
23 set forth in section 5 of this chapter.

24 (j) A remonstrance under section 11 of this chapter may not be  
25 filed. However, an appeal under section 15.5 of this chapter may be  
26 filed.

27 (k) In the absence of an appeal under section 15.5 of this chapter,  
28 an annexation ordinance adopted under this section takes effect not less  
29 than thirty (30) days after the adoption of the ordinance and upon the  
30 filing and recording of the ordinance under section 22 of this chapter.

31 SECTION 10. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,  
32 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2015]: Sec. 11. (a) Except as provided in section ~~5.1(i)~~ **5.1(j)**  
34 of this chapter and subsections (d) and (e), whenever territory is  
35 annexed by a municipality under this chapter, the annexation may be  
36 appealed by filing with the circuit or superior court of a county in  
37 which the annexed territory is located a written remonstrance signed  
38 by:

39 (1) at least ~~sixty-five~~ **fifty-one** percent (~~65%~~) (**51%**) of the  
40 owners of land in the annexed territory; or

41 (2) the owners of more than ~~seventy-five~~ **sixty** percent (~~75%~~)  
42 (**60%**) in assessed valuation of the land in the annexed territory.



1 The remonstrance must be filed within ninety (90) days after the  
 2 publication of the annexation ordinance under section 7 of this chapter,  
 3 must be accompanied by a copy of that ordinance, and must state the  
 4 reason why the annexation should not take place.

5 (b) On receipt of the remonstrance, the court shall determine  
 6 whether the remonstrance has the necessary signatures. In determining  
 7 the total number of landowners of the annexed territory and whether  
 8 signers of the remonstrance are landowners, the names appearing on  
 9 the tax duplicate for that territory constitute prima facie evidence of  
 10 ownership. Only one (1) person having an interest in each single  
 11 property, as evidenced by the tax duplicate, is considered a landowner  
 12 for purposes of this section.

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

18 (d) If an annexation is initiated by property owners under section 5.1  
 19 of this chapter and all property owners within the area to be annexed  
 20 petition the municipality to be annexed, a remonstrance to the  
 21 annexation may not be filed under this section.

22 (e) This subsection applies if:

- 23 (1) The territory to be annexed consists of not more than one  
 24 hundred (100) parcels; and  
 25 (2) Eighty percent (80%) of the boundary of the territory proposed  
 26 to be annexed is contiguous to the municipality.

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

32 SECTION 11. IC 36-4-3-11.1 IS ADDED TO THE INDIANA  
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. (a) This section applies to a**  
 35 **remonstrance filed after June 30, 2015.**

36 **(b) If a court orders an annexation not to take place after a**  
 37 **hearing under section 11 of this chapter, the court shall allow the**  
 38 **persons who signed a remonstrance in accordance with section**  
 39 **11(a) of this chapter the expenses incurred in the filing and**  
 40 **litigation of the remonstrance petition, including appeal costs and**  
 41 **reasonable attorney's fees in an amount not to exceed forty**  
 42 **thousand dollars (\$40,000).**



1 SECTION 12. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,  
 2 SECTION 188, IS AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Except as provided in  
 4 subsections (e) and (g), at the hearing under section 12 of this chapter,  
 5 the court shall order a proposed annexation to take place if the  
 6 following requirements are met:

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

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

9 **(3) The requirements of subsection (i).**

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

12 (1) That the territory sought to be annexed is contiguous to the  
 13 municipality.

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

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

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

18 (C) The territory is zoned for commercial, business, or  
 19 industrial uses.

20 (c) The requirements of this subsection are met if the evidence  
 21 establishes **one (1) of** the following:

22 (1) That the territory sought to be annexed:

23 **(A)** is contiguous to the municipality as required by section 1.5  
 24 of this chapter, except that at least one-fourth (1/4), instead of  
 25 one-eighth (1/8), of the aggregate external boundaries of the  
 26 territory sought to be annexed must coincide with the  
 27 boundaries of the municipality; **and**

28 ~~(2) That the territory sought to be annexed~~ **(B)** is needed and  
 29 can be used by the municipality for its development in the  
 30 reasonably near future.

31 **(2) That the territory sought to be annexed is occupied by an**  
 32 **economic development project that meets the requirements of**  
 33 **section 4.2 of this chapter.**

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

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

42 (2) The method or methods of financing the planned services. The



- 1 plan must explain how specific and detailed expenses will be  
2 funded and must indicate the taxes, grants, and other funding to  
3 be used.
- 4 (3) The plan for the organization and extension of services. The  
5 plan must detail the specific services that will be provided and the  
6 dates the services will begin.
- 7 (4) That planned services of a noncapital nature, including police  
8 protection, fire protection, street and road maintenance, and other  
9 noncapital services normally provided within the corporate  
10 boundaries, will be provided to the annexed territory within one  
11 (1) year after the effective date of annexation and that they will be  
12 provided in a manner equivalent in standard and scope to those  
13 noncapital services provided to areas within the corporate  
14 boundaries regardless of similar topography, patterns of land use,  
15 and population density.
- 16 (5) That services of a capital improvement nature, including street  
17 construction, street lighting, sewer facilities, water facilities, and  
18 stormwater drainage facilities, will be provided to the annexed  
19 territory within three (3) years after the effective date of the  
20 annexation in the same manner as those services are provided to  
21 areas within the corporate boundaries, regardless of similar  
22 topography, patterns of land use, and population density, and in  
23 a manner consistent with federal, state, and local laws,  
24 procedures, and planning criteria.
- 25 **(6) This subdivision applies to a fiscal plan prepared after**  
26 **June 30, 2015. The estimated effect of the proposed**  
27 **annexation on taxpayers in each of the political subdivisions**  
28 **to which the proposed annexation applies, including the**  
29 **expected tax rates, tax levies, expenditure levels, service levels,**  
30 **and annual debt service payments in those political**  
31 **subdivisions for four (4) years after the effective date of the**  
32 **annexation.**
- 33 **(7) This subdivision applies to a fiscal plan prepared after**  
34 **June 30, 2015. The estimated effect the proposed annexation**  
35 **will have on municipal finances, specifically how municipal**  
36 **tax revenues will be affected by the annexation for four (4)**  
37 **years after the effective date of the annexation.**
- 38 **(8) This subdivision applies to a fiscal plan prepared after**  
39 **June 30, 2015. Any estimated effects on political subdivisions**  
40 **in the county that are not part of the annexation and on**  
41 **taxpayers located in those political subdivisions for four (4)**  
42 **years after the effective date of the annexation.**



- 1           **(9) This subdivision applies to a fiscal plan prepared after**
- 2           **June 30, 2015. A list of all parcels of property in the**
- 3           **annexation territory and the following information regarding**
- 4           **each parcel:**
- 5                 **(A) The name of the owner of the parcel.**
- 6                 **(B) The parcel identification number.**
- 7                 **(C) The most recent assessed value of the parcel.**
- 8           (e) At the hearing under section 12 of this chapter, the court shall do
- 9           the following:
- 10                 (1) Consider evidence on the conditions listed in subdivision (2).
- 11                 (2) Order a proposed annexation not to take place if the court
- 12                 finds that all of the conditions set forth in clauses (A) through (D)
- 13                 and, if applicable, clause (E) exist in the territory proposed to be
- 14                 annexed:
- 15                         (A) The following services are adequately furnished by a
- 16                         provider other than the municipality seeking the annexation:
- 17                                 (i) Police and fire protection.
- 18                                 (ii) Street and road maintenance.
- 19                         (B) The annexation will have a significant financial impact on
- 20                         the residents or owners of land.
- 21                         (C) The annexation is not in the best interests of the owners of
- 22                         land in the territory proposed to be annexed as set forth in
- 23                         subsection (f).
- 24                         (D) One (1) of the following opposes the annexation:
- 25                                 (i) At least ~~sixty-five~~ **fifty-one** percent (~~65%~~) (**51%**) of the
- 26                                 owners of land in the territory proposed to be annexed.
- 27                                 (ii) The owners of more than ~~seventy-five~~ **sixty** percent
- 28                                 (~~75%~~) (**60%**) in assessed valuation of the land in the
- 29                                 territory proposed to be annexed.
- 30                         Evidence of opposition may be expressed by any owner of land
- 31                         in the territory proposed to be annexed.
- 32                         (E) This clause applies only to an annexation in which eighty
- 33                         percent (80%) of the boundary of the territory proposed to be
- 34                         annexed is contiguous to the municipality and the territory
- 35                         consists of not more than one hundred (100) parcels. At least
- 36                         seventy-five percent (75%) of the owners of land in the
- 37                         territory proposed to be annexed oppose the annexation as
- 38                         determined under section 11(b) of this chapter.
- 39                 (f) The municipality under subsection (e)(2)(C) bears the burden of
- 40                 proving that the annexation is in the best interests of the owners of land
- 41                 in the territory proposed to be annexed. In determining this issue, the
- 42                 court may consider whether the municipality has extended sewer or





- 1 water services to the entire territory to be annexed:
- 2 (1) within the three (3) years preceding the date of the
- 3 introduction of the annexation ordinance; or
- 4 (2) under a contract in lieu of annexation entered into under
- 5 IC 36-4-3-21.
- 6 The court may not consider the provision of water services as a result
- 7 of an order by the Indiana utility regulatory commission to constitute
- 8 the provision of water services to the territory to be annexed.
- 9 (g) This subsection applies only to cities located in a county having
- 10 a population of more than two hundred fifty thousand (250,000) but
- 11 less than two hundred seventy thousand (270,000). However, this
- 12 subsection does not apply if on April 1, 1993, the entire boundary of
- 13 the territory that is proposed to be annexed was contiguous to territory
- 14 that was within the boundaries of one (1) or more municipalities. At the
- 15 hearing under section 12 of this chapter, the court shall do the
- 16 following:
- 17 (1) Consider evidence on the conditions listed in subdivision (2).
- 18 (2) Order a proposed annexation not to take place if the court
- 19 finds that all of the following conditions exist in the territory
- 20 proposed to be annexed:
- 21 (A) The following services are adequately furnished by a
- 22 provider other than the municipality seeking the annexation:
- 23 (i) Police and fire protection.
- 24 (ii) Street and road maintenance.
- 25 (B) The annexation will have a significant financial impact on
- 26 the residents or owners of land.
- 27 (C) One (1) of the following opposes the annexation:
- 28 (i) A majority of the owners of land in the territory proposed
- 29 to be annexed.
- 30 (ii) The owners of more than seventy-five percent (75%) in
- 31 assessed valuation of the land in the territory proposed to be
- 32 annexed.
- 33 Evidence of opposition may be expressed by any owner of land
- 34 in the territory proposed to be annexed.
- 35 (h) The most recent:
- 36 (1) federal decennial census;
- 37 (2) federal special census;
- 38 (3) special tabulation; or
- 39 (4) corrected population count;
- 40 shall be used as evidence of resident population density for purposes
- 41 of subsection (b)(2)(A), but this evidence may be rebutted by other
- 42 evidence of population density.



1           **(i) Proof that the municipality has complied with the outreach**  
 2 **program requirements and notice requirements of section 1.7 of**  
 3 **this chapter.**

4           **(j) A municipality that prepares a fiscal plan after June 30,**  
 5 **2015, must comply with this subsection. A municipality may not**  
 6 **amend the fiscal plan after the date that a remonstrance is filed**  
 7 **under section 11 of this chapter, unless amendment of the fiscal**  
 8 **plan is consented to by the affected individuals signing the**  
 9 **remonstrance petition.**

10           SECTION 13. IC 36-7-4-205, AS AMENDED BY P.L.207-2014,  
 11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2015]: Sec. 205. **(a) This section does not affect a county's**  
 13 **authority and responsibility to provide services in the**  
 14 **unincorporated area of the county in the absence of an agreement**  
 15 **with a municipality to provide services to the unincorporated area**  
 16 **as set forth in IC 36-1-3-9.**

17           ~~(a)~~ **(b) ADVISORY.** A municipal plan commission shall adopt a  
 18 comprehensive plan, as provided for under the 500 series of the  
 19 advisory planning law, for the development of the municipality. For  
 20 comprehensive plans adopted after July 1, 1999, if:

21           (1) the municipality provides municipal services to the contiguous  
 22 unincorporated area; or

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

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

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

40           (1) If the corporate boundaries of the municipality or the  
 41 boundaries of that contiguous unincorporated area include any  
 42 part of the public waters or shoreline of a lake (which lies wholly



- 1 within Indiana), the designated area may also include:  
 2 (A) any part of those public waters and shoreline of the lake;  
 3 and  
 4 (B) any land area within two thousand five hundred (2,500)  
 5 feet from that shoreline.
- 6 (2) This subdivision applies to a municipality that annexes  
 7 noncontiguous territory under IC 36-4-3-4(a)(2) or  
 8 IC 36-4-3-4(a)(3). The boundaries of the noncontiguous territory  
 9 (including territory that is enlarged under subdivision  
 10 IC 36-4-3-4(a)(2)(B) for the use of the wastewater treatment  
 11 facility or water treatment facility) may not be considered a part  
 12 of the corporate boundaries of the municipality for purposes of  
 13 designating an area under this section.
- 14 ~~(c)~~ (d) ADVISORY. Before exercising their rights, powers, and  
 15 duties of the advisory planning law with respect to an area designated  
 16 under this section, a municipal plan commission must file, with the  
 17 recorder of the county in which the municipality is located, a  
 18 description or map defining the limits of that area. If the commission  
 19 revises the limits, it shall file, with the recorder, a revised description  
 20 or map defining those revised limits.
- 21 ~~(d)~~ (e) ADVISORY. If any part of the contiguous unincorporated  
 22 area within the potential jurisdiction of a municipal plan commission  
 23 is also within the potential jurisdiction of another municipal plan  
 24 commission, the first municipal plan commission may exercise  
 25 territorial jurisdiction over that part of the area within the potential  
 26 jurisdiction of both municipal plan commissions that equals the product  
 27 obtained by multiplying a fraction, the numerator of which is the area  
 28 within the corporate boundaries of that municipality and the  
 29 denominator of which is the total area within the corporate boundaries  
 30 of both municipalities times the area within the potential jurisdiction  
 31 of both municipal plan commissions. Furthermore, this commission  
 32 may exercise territorial jurisdiction within those boundaries, enclosing  
 33 an area reasonably compact and regular in shape, that the municipal  
 34 plan commission first acting designates.
- 35 ~~(e)~~ (f) ADVISORY. If the legislative body of a county adopts a  
 36 comprehensive plan and ordinance covering the unincorporated areas  
 37 of the county, a municipal plan commission may not exercise  
 38 jurisdiction, as provided in this section, over any part of that  
 39 unincorporated area unless it is authorized by ordinance of the  
 40 legislative body of the county. This ordinance may be initiated by the  
 41 county legislative body or by petition duly signed and presented to the  
 42 county auditor by:



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

5 Before final action on the ordinance by the county legislative body, the  
 6 county plan commission must hold an advertised public hearing as  
 7 required for other actions of the county plan commission under the  
 8 advisory planning law. Upon the passage of the ordinance by the  
 9 county legislative body and the subsequent acceptance of jurisdiction  
 10 by the municipal plan commission, the municipal plan commission  
 11 shall exercise the same rights, powers, and duties conferred in this  
 12 section exclusively with respect to the contiguous unincorporated area.  
 13 The jurisdiction of a municipal plan commission, as authorized under  
 14 this subsection, may be terminated by ordinance at the discretion of the  
 15 legislative body of the county, but only if the county has adopted a  
 16 comprehensive plan for that area that is as comprehensive in scope and  
 17 subject matter as that in effect by municipal ordinance.

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

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

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

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

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

42 ~~(h)~~ **(i)** ADVISORY—AREA. Whenever a new town is incorporated



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



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1561, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. **(a)** For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land:

- (1)** less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory; **or**
- (2) containing a public highway or rights of way of a public highway which connects the annexing municipality to noncontiguous territory is not considered a part of the boundaries of either the municipality or the territory unless the requirements of subsections (b)(1) or (b)(2) are met.**

**(b) Any public highway or rights of way of a public highway that is annexed by a municipality is not considered a part of the municipality for purposes of annexing additional territory unless one (1) of the following requirements is met:**

- (1) The municipality obtains the written consent of all owners of any property:**

- (A) adjoining the entire length of the public highway and rights of way of the public highway; and**
- (B) located outside the corporate boundaries of the annexing municipality;**

**to annex additional territory. A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent to annex additional territory.**

- (2) The entire length of the public highway or rights of way of the public highway is:**

- (A) a part of the boundaries of the municipality; and**
- (B) adjacent to or contiguous to parcels of property that are within the boundaries of the municipality.**

- (3) As part of one (1) annexation ordinance, the municipality**

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**annexes:**

- (A) the public highway and rights of way of the public highway; and**
- (B) all parcels of property that are adjacent to or contiguous to the public highway or rights of way of the public highway.**

**An annexation ordinance that uses a public highway or rights of way of a public highway to annex additional territory without satisfying one (1) of the requirements of this subsection is void."**

Page 2, between lines 19 and 20, begin a new paragraph and insert:

**"(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice under IC 5-3-1 of the meetings, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by mail or certified mail and include the following information:**

- (1) The notice shall inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.**
- (2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.**
- (3) The date, time, and location of the meetings to be conducted under the outreach program.**

**(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence that the notice was sent by certified mail, return receipt requested, and in accordance with this section, it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.**

**(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.**

SECTION 3. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), ~~or 4(h) or 4.1~~ of this



chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan, **if applicable**, described in section 13 of this chapter.
- (6) The location where the public may inspect and copy the fiscal plan, **if applicable**.
- (7) A statement that the municipality will provide a copy of the fiscal plan, **if applicable**, after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as





shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed."

Page 2, line 24, after "(b)" insert "**This subsection applies only to an annexation ordinance adopted before July 1, 2015.**"

Page 2, line 28, delete "After June 30,".

Page 2, delete lines 29 through 42, begin a new paragraph and insert:

**"(c) This subsection applies only to an annexation ordinance adopted after June 30, 2015. Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all parts of the annexed territory that are used for agricultural purposes and remains exempt from the property tax liability while the property's use remains agricultural."**

Page 3, delete line 1.

Page 3, line 2, strike "(c)" and insert "(d)".

Page 3, line 5, strike "(d)" and insert "(e)".

Page 3, between lines 9 and 10, begin a new paragraph and insert:  
**"SECTION 5. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.2. (a) As used in this section, "economic development project" means any project that:**

**(1) a municipality determines will:**

**(A) promote significant opportunities for the gainful employment of its citizens;**

**(B) attract a major new business enterprise to the municipality; or**

**(C) retain or expand a significant business enterprise within the municipality; and**

**(2) involves expenditures by the annexing municipality for any of the following:**

**(A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.**

**(B) Rehabilitation, renovation, and enlargement of buildings and structures.**

**(C) Machinery, equipment, furnishings, or facilities.**

**(D) Substance removal or remedial action.**

**(b) A municipality may annex noncontiguous territory that is entirely occupied by an economic development project, only if all of the following requirements are satisfied:**

**(1) The economic development project is developed by the annexing municipality.**



**(2) The economic development project:**

- (A) only involves commercial or industrial use of land; and**
- (B) does not involve any residential use of land.**

**(3) The economic development project has its entire area not more than one (1) mile from the annexing municipality's boundary.**

**(4) The economic development project is annexed under section 5.1 of this chapter.**

**(c) The annexation territory may not be considered a part of the municipality for purposes of annexing additional territory. The annexation ordinance and fiscal plan must include the basis for the municipality's determination that the project is an economic development project.**

**(d) If the economic development project that occupies territory that is annexed in accordance with this section is not completed within three (3) years after the date the annexation is effective, the annexation territory reverts to the county. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the county.**

SECTION 5. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

- (A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or
- (B) the owners of ~~seventy-five~~ ~~sixty~~ percent (~~75%~~) (**60%**) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

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

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

(c) ~~Except as provided in section 5.1 of this chapter,~~ If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or



superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

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

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

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

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

SECTION 6. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

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

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

(d) The municipality may:

- (1) adopt an annexation ordinance annexing the territory; and
- (2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;



after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality.

**(h) If a landowner withdraws the landowner's signature, the following occurs:**

**(1) Except as provided in subdivision (2),** the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

**(2) If the petition is for annexation of an economic development project under section 4.2 of this chapter, the annexation ordinance is voided.**

~~(h)~~ **(i)** If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i)~~ **(j)** A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

~~(j)~~ **(k)** In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter."

Page 3, line 12, strike "5.1(i)" and insert "**5.1(j)**".

Page 3, line 13, reset in roman "and (e)".

Page 3, line 13, delete "through (f), with regard to an".

Page 3, delete line 14.



- Page 3, line 15, delete "June 30, 2015,".
- Page 3, line 15, delete "that does not receive any capital".
- Page 3, line 16, delete "or noncapital services from the municipality".
- Page 3, line 20, delete "sixty" and insert "**fifty-one**".
- Page 3, line 20, delete "(60%)" and insert "**(51%)**".
- Page 3, line 22, strike "seventy-five" and insert "**sixty**".
- Page 3, line 22, strike "(75%)" and insert "**(60%)**".
- Page 3, delete lines 41 through 42.
- Page 4, delete lines 1 through 5.
- Page 4, line 6, reset in roman "(d)".
- Page 4, line 6, delete "(e)".
- Page 4, line 10, reset in roman "(e)".
- Page 4, line 10, delete "(f)".
- Page 4, line 10, delete "the following requirements are" and insert ":",.
- Page 4, delete line 11.
- Page 4, line 13, delete "." and insert ";".
- Page 4, line 13, reset in roman "and".
- Page 4, delete lines 16 through 19.
- Page 4, line 32, delete "in filing the" and insert "**in the filing and litigation of the remonstrance petition, including appeal costs and reasonable attorney's fees in an amount not to exceed forty thousand dollars (\$40,000)**".
- Page 4, delete lines 33 through 42.
- Page 5, delete lines 1 through 12.
- Page 5, between lines 20 and 21, begin a new line block indented and insert:
- "(3) The requirements of subsection (i)."**
- Page 5, line 32, after "establishes" insert "**one (1) of**".
- Page 5, line 33, after "annexed" insert ":",
- (A)"**.
- Page 5, line 37, delete "." and insert "; **and**".
- Page 5, line 38, beginning with "(2)" begin a new line double block indented.
- Page 5, line 38, strike "(2) That the territory sought to be annexed".
- Page 5, line 38, after "annexed" insert "**(B)**".
- Page 5, between lines 40 and 41, begin a new line block indented and insert:
- "(2) That the territory sought to be annexed is occupied by an economic development project that meets the requirements of section 4.2 of this chapter."**



Page 7, line 32, delete "sixty" and insert "**fifty-one**".

Page 7, line 32, delete "(60%)" and insert "**(51%)**".

Page 7, line 34, strike "seventy-five" and insert "**sixty**".

Page 7, line 34, strike "(75%)" and insert "**(60%)**".

Page 8, reset in roman lines 13 through 41.

Page 8, line 42, reset in roman "(h)".

Page 8, line 42, delete "(g)".

Page 9, delete lines 8 through 40, begin a new paragraph and insert:

**"(i) Proof that the municipality has complied with the outreach program requirements and notice requirements of section 1.7 of this chapter."**

Page 9, line 41, delete "(i)" and insert "**(j)**".

Page 10, line 4, delete "A municipality that amends the fiscal plan".

Page 10, delete lines 5 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1561 as introduced.)

MAHAN

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1561 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The area inside the boundaries of a county comprises its territorial jurisdiction. However, a municipality has exclusive jurisdiction over bridges (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses, sewers, drains, and public grounds inside its corporate boundaries, unless a statute provides otherwise.

(b) The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas outside its corporate boundaries.

(c) Whenever a statute authorizes a municipality to exercise a power

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in areas outside its corporate boundaries, the power may be exercised **only as follows:**

(1) Inside the corporate boundaries of another municipality, only if both municipalities, by ordinance, enter into an agreement under IC 36-1-7. ~~or~~

(2) **Except as provided in subdivision (3)**, in a county, other than the county in which the municipal hall is located, but not inside the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

**(3) This subdivision does not affect or invalidate a written mutual aid agreement for police protection or fire protection executed before July 1, 2015, or a written agreement for services provided by a municipality to an unincorporated area after June 30, 2015, if the services were initially provided by the municipality before July 1, 2015, and the municipality files the written agreement with the county executive before January 1, 2016. This subdivision applies whenever a statute authorizes a municipality to provide the following services in areas outside the municipality's corporate boundaries, but not inside the corporate boundaries of another municipality:**

- (A) Police protection.**
- (B) Fire protection.**
- (C) Street and road maintenance.**
- (D) Sewer service.**
- (E) Water service.**

**Notwithstanding any other law, a municipality may provide municipal services in the unincorporated area of a county only if both the municipality and the county, by ordinance, enter into an agreement under IC 36-1-7. In the absence of an agreement under IC 36-1-7, the county shall provide the services. This subdivision does not affect a municipality's authority to exercise only planning and zoning jurisdiction over the area within two (2) miles of the corporate boundaries of the municipality if the requirements of IC 36-7-4-205 are met.**

(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit



shall pay the costs of the action."

Page 14, after line 38, begin a new paragraph and insert:

"SECTION 13. IC 36-7-4-205, AS AMENDED BY P.L.207-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 205. **(a) This section does not affect a county's authority and responsibility to provide services in the unincorporated area of the county in the absence of an agreement with a municipality to provide services to the unincorporated area as set forth in IC 36-1-3-9.**

~~(a)~~ **(b)** 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)~~ **(c)** 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. 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:
  - (A) any part of those public waters and shoreline of the lake; and
  - (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.

(e) (d) 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.

(e) (e) 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) (f) 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)~~ **(g)** **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)~~ **(h)** **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)~~ **(i)** **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 1561 as printed February 17, 2015.)

GOODIN

