



January 19, 2022

SENATE BILL No. 73

DIGEST OF SB 73 (Updated January 13, 2022 11:10 am - DI 140)

Citations Affected: IC 13-18; IC 36-4; IC 36-9.

Synopsis: Annexation. Provides, with certain exceptions, that the following apply to annexations for which an annexation ordinance is adopted after March 31, 2022: (1) To proceed with an annexation initiated by the municipality, the municipality must file a petition with the court signed by: (A) at least 51% of the owners of non-tax exempt land; or (B) the owners of at least 75% in assessed valuation of non-tax exempt land; in the annexation territory. (2) If the petition has enough signatures, the court must hold a hearing to review the annexation. (3) Adds provisions regarding the validity of signatures. (4) Eliminates remonstrances and reimbursement of remonstrator's attorney's fees and costs. (5) Voids remonstrance waivers. (6) Eliminates provisions regarding contiguity of a public highway and that prohibit an annexation from taking effect in the year before a federal decennial census is conducted. Voids a settlement agreement in lieu of annexation executed after March 31, 2022. (7) Eliminates the requirement that a municipality adopt a fiscal plan if the annexation is petitioned for by 100% of the owners of land within the annexation territory.

Effective: Upon passage.

Boots, Niemeyer

January 4, 2022, read first time and referred to Committee on Local Government.
January 18, 2022, reported favorably — Do Pass.

SB 73—LS 6364/DI 87



January 19, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 73

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 13-18-15-2, AS AMENDED BY P.L.257-2019,
2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The persons involved shall negotiate the
4 terms for connection and service under this chapter.
5 (b) If service is ordered under this chapter, a receiver of that service
6 that is located in an unincorporated area may grant a waiver to a
7 municipality providing the service. A waiver under this section:
8 (1) must waive the receiver's right of remonstrance against
9 annexation of the areas in which the service is to be provided; and
10 (2) may be one (1) of the terms for connection and service
11 described in subsection (a).
12 (c) The waiver, if granted:
13 (1) shall be noted on the deed of each property affected and
14 recorded as provided by law; and
15 (2) is considered a covenant running with the land.
16 (d) This subsection applies to any deed recorded after June 30,
17 2015. This subsection applies only to property that is subject to a

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1 remonstrance waiver. A municipality shall, within a reasonable time
 2 after the recording of a deed to property located within the
 3 municipality, provide written notice to the property owner that a waiver
 4 of the right of remonstrance exists with respect to the property.

5 (e) A remonstrance waiver executed before July 1, 2003, is void.
 6 This subsection does not invalidate an annexation that was effective on
 7 or before July 1, 2019.

8 (f) A remonstrance waiver executed after June 30, 2003, and before
 9 July 1, 2019, is subject to the following:

10 (1) The waiver is void unless the waiver was recorded ~~(A)~~ before
 11 January 1, 2020, ~~and (B)~~ with the county recorder of the county
 12 where the property subject to the waiver is located.

13 (2) A waiver that is not void under subdivision (1) **or subsection**
 14 **(h)** expires not later than fifteen (15) years after the date the
 15 waiver is executed.

16 This subsection does not invalidate an annexation that was effective on
 17 or before July 1, 2019.

18 (g) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
 19 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is must be~~
 20 ~~recorded (A) not later than thirty (30) business days after the date the~~
 21 ~~waiver was executed and (B) with the county recorder of the county~~
 22 ~~where the property subject to the waiver is located. (2) A waiver that~~
 23 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
 24 ~~years after the date the waiver is executed.~~ This subsection does not
 25 invalidate an annexation that was effective on or before July 1, 2019.

26 **(h) Notwithstanding any other law, a waiver of the right of**
 27 **remonstrance is valid and binding on a landowner or a successor**
 28 **in title only with regard to an annexation for which the annexation**
 29 **ordinance was adopted before April 1, 2022.**

30 SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.206-2016,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 1.5. (a) For purposes of this chapter, territory
 33 sought to be annexed may be considered "contiguous" only if at least
 34 one-eighth (1/8) of the aggregate external boundaries of the territory
 35 coincides with the boundaries of the annexing municipality. In
 36 determining if a territory is contiguous, a strip of land less than one
 37 hundred fifty (150) feet wide that connects the annexing municipality
 38 to the territory is not considered a part of the boundaries of either the
 39 municipality or the territory.

40 (b) This subsection applies to an annexation for which an
 41 annexation ordinance is adopted after June 30, 2015, **and before April**
 42 **1, 2022.** A public highway or the rights-of-way of a public highway are



1 contiguous to:

2 (1) the municipality; or

3 (2) property in the unincorporated area adjacent to the public
4 highway or rights-of-way of a public highway;

5 if the public highway or the rights-of-way of a public highway are
6 contiguous under subsection (a) and one (1) of the requirements in
7 subsection (c) is satisfied.

8 (c) **This subsection applies to an annexation for which an**
9 **annexation ordinance is adopted after June 30, 2015, and before**
10 **April 1, 2022.** A public highway or the rights-of-way of a public
11 highway are not contiguous unless one (1) of the following
12 requirements is met:

13 (1) The municipality obtains the written consent of the owners of
14 all property:

15 (A) adjacent to the entire length of the part of the public
16 highway and rights-of-way of the public highway that is being
17 annexed; and

18 (B) not already within the corporate boundaries of the
19 municipality.

20 A waiver of the right of remonstrance executed by a property
21 owner or a successor in title of the property owner for sewer
22 services or water services does not constitute written consent for
23 purposes of this subdivision.

24 (2) All property adjacent to at least one (1) side of the entire
25 length of the part of the public highway or rights-of-way of the
26 public highway being annexed is already within the corporate
27 boundaries of the municipality.

28 (3) All property adjacent to at least one (1) side of the entire
29 length of the part of the public highway or rights-of-way of the
30 public highway being annexed is part of the same annexation
31 ordinance in which the public highway or rights-of-way of a
32 public highway are being annexed.

33 A municipality may not annex a public highway or the rights-of-way of
34 a public highway or annex territory adjacent to the public highway or
35 rights-of-way of a public highway unless the requirements of this
36 section are met.

37 SECTION 3. IC 36-4-3-1.7, AS AMENDED BY P.L.206-2016,
38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 1.7. (a) This section applies only to an
40 annexation ordinance adopted after June 30, 2015. This section does
41 not apply to an annexation under section 5.1 of this chapter.

42 (b) Not earlier than six (6) months before a municipality introduces

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1 an annexation ordinance, the municipality shall conduct an outreach
 2 program to inform citizens regarding the proposed annexation. For an
 3 annexation under section 3 or 4 of this chapter, the outreach program
 4 must conduct at least six (6) public information meetings regarding the
 5 proposed annexation. For an annexation under section 5 of this chapter,
 6 the outreach program must conduct at least three (3) public information
 7 meetings regarding the proposed annexation. The public information
 8 meetings must provide citizens with the following information:

9 (1) Maps showing the proposed boundaries of the annexation
 10 territory.

11 (2) Proposed plans for extension of capital and noncapital
 12 services in the annexation territory, including proposed dates of
 13 extension.

14 (3) Expected fiscal impact on taxpayers in the annexation
 15 territory, including any increase in taxes and fees.

16 (c) The municipality shall provide notice of the dates, times, and
 17 locations of the outreach program meetings. The municipality shall
 18 publish the notice of the meetings under IC 5-3-1, including the date,
 19 time, and location of the meetings, except that notice must be published
 20 not later than thirty (30) days before the date of each meeting. The
 21 municipality shall also send notice to each owner of land within the
 22 annexation territory not later than thirty (30) days before the date of the
 23 first meeting of the outreach program. The notice to landowners shall
 24 be sent by first class mail, certified mail with return receipt requested,
 25 or any other means of delivery that includes a return receipt and must
 26 include the following information:

27 (1) The notice **to the landowner** must inform the landowner that
 28 the municipality is proposing to annex territory that includes the
 29 landowner's property.

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

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

35 (d) The notice shall be sent to the address of the landowner as listed
 36 on the tax duplicate. If the municipality provides evidence that the
 37 notice was sent:

38 (1) by certified mail, with return receipt requested or any other
 39 means of delivery that includes a return receipt; and

40 (2) in accordance with this section;

41 it is not necessary that the landowner accept receipt of the notice.

42 (e) **This subsection applies only to an annexation for which an**



1 **annexation ordinance is adopted after June 30, 2015, and before**
 2 **April 1, 2022.** If a remonstrance is filed under section 11 of this
 3 chapter, the municipality shall file with the court proof that notices
 4 were sent to landowners under this section and proof of publication.

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

7 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This
 9 section does not apply to an annexation under:

10 (1) section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter; **or**

11 (2) **section 5.1 of this chapter, for which an annexation**
 12 **ordinance is adopted after March 31, 2022.**

13 (b) A municipality shall develop and adopt a written fiscal plan and
 14 establish a definite policy by resolution of the legislative body that
 15 meets the requirements set forth in section 13 of this chapter.

16 (c) Except as provided in subsection (d), the municipality shall
 17 establish and adopt the written fiscal plan before mailing the
 18 notification to landowners in the territory proposed to be annexed
 19 under section 2.2 of this chapter.

20 (d) In an annexation under section ~~5 or 5.1~~ **5.5** of this chapter, the
 21 municipality shall establish and adopt the written fiscal plan before
 22 adopting the annexation ordinance.

23 SECTION 5. IC 36-4-3-5, AS AMENDED BY P.L.149-2016,
 24 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 5. (a) This subsection applies only to a
 26 petition requesting annexation that is filed before July 1, 2015. If the
 27 owners of land located outside of but contiguous to a municipality want
 28 to have territory containing that land annexed to the municipality, they
 29 may file with the legislative body of the municipality a petition:

30 (1) signed by at least:

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

33 (B) the owners of seventy-five percent (75%) of the total
 34 assessed value of the land for property tax purposes; and

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

37 (b) This subsection applies only to a petition requesting annexation
 38 that is filed after June 30, 2015. **A municipality may not collect**
 39 **signatures on an annexation petition that is filed with the legislative**
 40 **body under this section after March 31, 2022.** If the owners of land
 41 located outside of but contiguous to a municipality want to have
 42 territory containing that land annexed to the municipality, they may file



1 with the legislative body of the municipality a petition that meets the
2 following requirements:

3 (1) The petition is signed by at least one (1) of the following:

4 (A) Fifty-one percent (51%) of the owners of land in the
5 territory sought to be annexed. An owner of land may not:

6 (i) be counted in calculating the total number of owners of
7 land in the annexation territory; or

8 (ii) have the owner's signature counted;

9 with regard to any single property that the owner has an
10 interest in that was exempt from property taxes under
11 IC 6-1.1-10 or any other state law for the immediately
12 preceding year.

13 (B) The owners of seventy-five percent (75%) of the total
14 assessed value of the land for property tax purposes. Land that
15 was exempt from property taxes under IC 6-1.1-10 or any
16 other state law for the immediately preceding year may not be
17 included in calculating the total assessed valuation of the land
18 in the annexation territory. The court may not count an owner's
19 signature on a petition with regard to any single property that
20 the owner has an interest in that was exempt from property
21 taxes under IC 6-1.1-10 or any other state law for the
22 immediately preceding year.

23 (2) The petition requests an ordinance annexing the area
24 described in the petition.

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

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

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

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

42 (1) essential municipal services and facilities are not available to



- 1 the residents of the territory sought to be annexed;
 2 (2) the municipality is physically and financially able to provide
 3 municipal services to the territory sought to be annexed;
 4 (3) the population density of the territory sought to be annexed is
 5 at least three (3) persons per acre; and
 6 (4) the territory sought to be annexed is contiguous to the
 7 municipality.

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

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

14 SECTION 6. IC 36-4-3-5.1, AS AMENDED BY P.L.160-2020,
 15 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 5.1. (a) Owners of land that is located outside
 17 but contiguous to a municipality or that is located in territory described
 18 in section 4(i) of this chapter may file a petition with the legislative
 19 body of the municipality:

- 20 (1) requesting an ordinance annexing the area described in the
 21 petition; and
 22 (2) signed by:

23 (A) one hundred percent (100%) of the landowners that reside
 24 within the territory that is proposed to be annexed, in the case
 25 of a petition filed before July 1, 2015; and

26 (B) in the case of a petition filed after June 30, 2015, one
 27 hundred percent (100%) of the owners of land within the
 28 territory that is proposed to be annexed.

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

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

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

36 (d) The municipality may ~~(1)~~ adopt an annexation ordinance
 37 annexing the territory ~~and (2) adopt a fiscal plan and establish a~~
 38 ~~definite policy by resolution of the legislative body;~~ after the legislative
 39 body has held a public hearing on the proposed annexation.

40 (e) The municipality may introduce and hold the public hearing on
 41 the annexation ordinance not later than thirty (30) days after the
 42 petition is filed with the legislative body. Notice of the public hearing



1 may be published one (1) time in accordance with IC 5-3-1 at least
 2 twenty (20) days before the hearing. All interested parties must have
 3 the opportunity to testify at the hearing as to the proposed annexation.

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

6 (g) A landowner may withdraw the landowner's signature from the
 7 petition not more than thirteen (13) days after the ~~municipality adopts~~
 8 ~~the fiscal plan date of the public hearing under subsection (e)~~ by
 9 providing written notice to the office of the clerk of the municipality.
 10 If a landowner withdraws the landowner's signature, the petition shall
 11 automatically be considered a voluntary petition that is filed with the
 12 legislative body under section 5 of this chapter, fourteen (14) days after
 13 the date ~~the fiscal plan is adopted~~ **of the public hearing under**
 14 **subsection (e)**. All provisions applicable to a petition initiated under
 15 section 5 of this chapter apply to the petition.

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

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

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

28 SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE
 29 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 30 **UPON PASSAGE]: Sec. 5.5. (a) This section does not apply to an**
 31 **annexation under section 5 or 5.1 of this chapter.**

32 **(b) This section applies only to an annexation for which an**
 33 **annexation ordinance is adopted after March 31, 2022.**

34 **(c) After adopting an annexation ordinance under section 3 or**
 35 **4 of this chapter, in order for the annexation to proceed, the**
 36 **municipality must file a written petition under subsection (f) signed**
 37 **by owners of land in the territory proposed to be annexed who are**
 38 **in favor of the annexation. The petition must be signed by:**

39 **(1) at least fifty-one percent (51%) of the owners of land:**

40 **(A) not exempt from property taxes under IC 6-1.1-10 or**
 41 **any other state law; and**

42 **(B) in the territory proposed to be annexed; or**



- 1 **(2) the owners of more than seventy-five percent (75%) in**
- 2 **assessed valuation of land:**
- 3 **(A) not exempt from property taxes under IC 6-1.1-10 or**
- 4 **any other state law; and**
- 5 **(B) in the territory proposed to be annexed.**
- 6 **(d) The petition circulated by the municipality must include on**
- 7 **each page where signatures are affixed a heading that is**
- 8 **substantially similar to the following:**
- 9 **"PETITION FOR ANNEXATION INTO THE (insert**
- 10 **whether city or town) OF (insert name of city or town)."**
- 11 **(e) A landowner may withdraw the landowner's signature from**
- 12 **the petition not more than ten (10) days after the municipality**
- 13 **adopts the annexation ordinance by providing written notice to the**
- 14 **office of the clerk of the municipality. A landowner who withdraws**
- 15 **the landowner's signature from the petition is considered not to**
- 16 **have signed the petition for purposes of subsection (h)(2).**
- 17 **(f) The municipality must file the petition with the circuit or**
- 18 **superior court of the county where the municipality is located not**
- 19 **later than ninety (90) days after the publication of the annexation**
- 20 **ordinance under section 7 of this chapter. The petition must be**
- 21 **accompanied by:**
- 22 **(1) a copy of the ordinance; and**
- 23 **(2) the names and addresses of all persons who meet the**
- 24 **requirements of subsection (h).**
- 25 **(g) On receipt of the petition, the court shall determine whether**
- 26 **the petition has the necessary signatures. In determining the total**
- 27 **number of landowners of the territory proposed to be annexed and**
- 28 **whether signers of the petition are landowners, the names**
- 29 **appearing on the tax duplicate for that territory constitute prima**
- 30 **facie evidence of ownership. Only one (1) person having an interest**
- 31 **in each single property, as evidenced by the tax duplicate, is**
- 32 **considered a landowner for purposes of this section. A person is**
- 33 **entitled to sign a petition only one (1) time, regardless of whether**
- 34 **the person owns more than one (1) parcel of real property. If the**
- 35 **court determines that the municipality's petition has a sufficient**
- 36 **number of signatures, the court shall fix a time, not later than sixty**
- 37 **(60) days after its determination, for a hearing on the petition.**
- 38 **(h) A person may intervene as a party at the hearing described**
- 39 **in subsection (g) if the following requirements are satisfied:**
- 40 **(1) The person owns, solely or with another person, property**
- 41 **that is in the territory proposed to be annexed.**
- 42 **(2) None of the owners of the property signed the petition filed**



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by the municipality.

(3) The person appeared in person or submitted a remonstrance or other document objecting to the annexation into the record of the municipality's hearing on the annexation ordinance under section 2.1 of this chapter.

The court shall give a person described in this subsection notice of the hearing on the petition by certified mail.

SECTION 8. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.6. (a) This section applies only to an annexation for which an annexation ordinance is adopted after March 31, 2022.**

(b) A waiver or release of the right of remonstrance by a landowner or successor in title is void and may not be considered or counted as a valid signature on a petition in favor of annexation under section 5, 5.1, or 5.5 of this chapter.

(c) If, with regard to a signature on a petition for annexation under section 5, 5.1, or 5.5 of this chapter:

- (1) the validity of a signature is uncertain; and
- (2) this section does not establish a standard to be applied in the case;

a reasonable doubt must be resolved in favor of the validity of the signature.

(d) Whenever the name of an individual, as printed or signed, contains a minor variation from the name of the individual as set forth in the relevant county records, the signature is considered valid.

(e) Whenever the residence address or mailing address of an individual contains a minor variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered valid.

(f) If the residence address or mailing address of an individual contains a substantial variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered invalid.

(g) If the signature of an individual does not substantially conform with the signature of the individual in relevant county records, the signature is considered invalid. In determining whether a signature substantially conforms with the signature in the relevant county records, consideration shall be given to whether that lack of conformity may reasonably be attributed to the age, disability, or impairment of the individual.



1 SECTION 9. IC 36-4-3-7, AS AMENDED BY P.L.236-2019,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 7. (a) After an ordinance is adopted under
 4 section 3, 4, 5, or 5.1 of this chapter, it must be published in the
 5 manner prescribed by IC 5-3-1.

6 **(b) This subsection applies only to an annexation for which an**
 7 **annexation ordinance is adopted before April 1, 2022.** Except as
 8 provided in subsection ~~(b)~~, (c) ~~(d)~~, or ~~(f)~~, **(e)**, in the absence of
 9 remonstrance and appeal under section 11 or 15.5 of this chapter, the
 10 ordinance takes effect at least ninety (90) days after its publication and
 11 upon the filing required by section 22(a) of this chapter.

12 **(c) An annexation ordinance takes effect as follows:**

13 **(1) This subdivision applies to an annexation under section 5**
 14 **of this chapter. Except as provided in subsection (e), in the**
 15 **absence of an appeal under section 15.5 of this chapter, the**
 16 **annexation ordinance takes effect at least ninety (90) days**
 17 **after its publication and upon the filing under section 22(a) of**
 18 **this chapter.**

19 **(2) This subdivision applies to an annexation under section 5.1**
 20 **of this chapter. Except as provided in subsection (e), in the**
 21 **absence of an appeal under section 15.5 of this chapter, the**
 22 **ordinance takes effect at least thirty (30) days after the**
 23 **adoption of the ordinance and upon the filing under section**
 24 **22(a) of this chapter.**

25 **(3) This subdivision applies to an annexation under section 5.5**
 26 **of this chapter. Except as provided in subsection (e), if a final**
 27 **and unappealable judgment under section 12 or 15.5 of this**
 28 **chapter is entered in favor of the annexation, the annexation**
 29 **is effective upon the filing under section 22(a) of this chapter.**

30 **(4) This subdivision applies to an annexation under section 7.1**
 31 **of this chapter for which an annexation ordinance is adopted**
 32 **after March 31, 2022. If a final and unappealable judgment**
 33 **under section 12 or 15.5 of this chapter is entered in favor of**
 34 **the annexation, the annexation is effective upon the filing**
 35 **under section 22(a) of this chapter.**

36 ~~(b)~~ An ordinance described in subsection ~~(d)~~ or adopted under
 37 section 3, 4, 5, or 5.1 of this chapter may not take effect during the year
 38 preceding a year in which a federal decennial census is conducted. An
 39 ordinance that would otherwise take effect during the year preceding
 40 a year in which a federal decennial census is conducted takes effect
 41 January 1 of the year in which a federal decennial census is conducted.

42 ~~(e)~~ ~~(d)~~ Subsections ~~(d)~~ and ~~(e)~~ **(e) and (f)** apply to fire protection



1 districts that are established after July 1, 1987, and to which subsection
 2 (g) does not apply. For the purposes of this section, territory that has
 3 been:

- 4 (1) added to an existing fire protection district under
 5 IC 36-8-11-11; or
 6 (2) approved by ordinance of the county legislative body to be
 7 added to an existing fire protection district under IC 36-8-11-11,
 8 notwithstanding that the territory's addition to the fire protection
 9 district has not yet taken effect;

10 shall be considered a part of the fire protection district as of the date
 11 that the fire protection district was originally established.

12 ~~(d)~~ Except as provided in subsection ~~(b)~~; **(e)** Whenever a
 13 municipality annexes territory, all or part of which lies within a fire
 14 protection district (IC 36-8-11), the annexation ordinance in the
 15 absence of remonstrance and appeal under section 11 or 15.5 of this
 16 chapter **(in the case of an annexation for which an annexation**
 17 **ordinance is adopted before April 1, 2022) or in the absence of a**
 18 **hearing or an appeal under section 12 or 15.5 of this chapter (in the**
 19 **case of an annexation for which an annexation ordinance is**
 20 **adopted after March 31, 2022) takes effect the second January 1 that**
 21 **follows the date the ordinance is adopted and upon the filing required**
 22 **by section 22(a) of this chapter. Except in the case of an annexation to**
 23 **which subsection (g) applies, the municipality shall:**

- 24 (1) provide fire protection to that territory beginning the date the
 25 ordinance is effective; and
 26 (2) send written notice to the fire protection district of the date the
 27 municipality will begin to provide fire protection to the annexed
 28 territory within ten (10) days of the date the ordinance is adopted.

29 ~~(e)~~ **(f)** If the fire protection district from which a municipality
 30 annexes territory under subsection ~~(d)~~ **(e)** is indebted or has
 31 outstanding unpaid bonds or other obligations at the time the
 32 annexation is effective, the municipality is liable for and shall pay that
 33 indebtedness in the same ratio as the assessed valuation of the property
 34 in the annexed territory (that is part of the fire protection district) bears
 35 to the assessed valuation of all property in the fire protection district,
 36 as shown by the most recent assessment for taxation before the
 37 annexation, unless the assessed property within the municipality is
 38 already liable for the indebtedness. The annexing municipality shall
 39 pay its indebtedness under this section to the board of fire trustees. If
 40 the indebtedness consists of outstanding unpaid bonds or notes of the
 41 fire protection district, the payments to the board of fire trustees shall
 42 be made as the principal or interest on the bonds or notes becomes due.



1 (f) This subsection applies to an annexation initiated by property
 2 owners under section 5.1 of this chapter in which all property owners
 3 within the area to be annexed petition the municipality to be annexed.
 4 Subject to subsections (b) and (d), and in the absence of an appeal
 5 under section 15.5 of this chapter, an annexation ordinance takes effect
 6 at least thirty (30) days after its publication and upon the filing required
 7 by section 22(a) of this chapter.

8 (g) Whenever a municipality annexes territory that lies within a fire
 9 protection district that has a total net assessed value (as determined by
 10 the county auditor) of more than one billion dollars (\$1,000,000,000)
 11 on the date the annexation ordinance is adopted:

12 (1) the annexed area shall remain a part of the fire protection
 13 district after the annexation takes effect; and

14 (2) the fire protection district shall continue to provide fire
 15 protection services to the annexed area.

16 The municipality shall not tax the annexed territory for fire protection
 17 services. The annexing municipality shall establish a special fire fund
 18 for all fire protection services that are provided by the municipality
 19 within the area of the municipality that is not within the fire protection
 20 district, and which shall not be assessed to the annexed special taxing
 21 district. The annexed territory that lies within the fire protection district
 22 shall continue to be part of the fire protection district special taxing
 23 district.

24 SECTION 10. IC 36-4-3-7.1, AS AMENDED BY P.L.257-2019,
 25 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) ~~Notwithstanding~~
 27 ~~section 7(b) of this chapter,~~ An ordinance adopted under section 4 or
 28 5.1 of this chapter **that meets the conditions set forth in subsection**
 29 **(b) takes effect as follows:**

30 **(1) In the case of an annexation for which an annexation**
 31 **ordinance was adopted before April 1, 2022, the ordinance**
 32 **takes effect immediately:**

33 (A) upon the expiration of the remonstrance and appeal period
 34 under section 11, 11.1, or 15.5 of this chapter; and

35 (B) after the publication, filing, and recording required by
 36 section 22(a) of this chapter. ~~if all of the following conditions~~
 37 ~~are met:~~

38 **(2) In the case of an annexation for which an annexation**
 39 **ordinance was adopted after March 31, 2022, the ordinance**
 40 **takes effect as set forth in section 7(c)(4) of this chapter.**

41 **(b) This section applies to an annexation that meets all of the**
 42 **following conditions:**



1 (1) The annexed territory has no population.

2 (2) Ninety percent (90%) of the total assessed value of the land
3 for property tax purposes has one (1) owner.

4 (3) The annexation is required to fulfill an economic development
5 incentive package and to retain an industry through various local
6 incentives, including urban enterprise zone benefits.

7 SECTION 11. IC 36-4-3-11, AS AMENDED BY P.L.206-2016,
8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 11. (a) This subsection applies only to an
10 annexation for which an annexation ordinance was adopted before July
11 1, 2015. Except as provided in section 5.1(i) of this chapter (**as in**
12 **effect on July 1, 2015**) and ~~subsections subsection (e), and (f)~~,
13 whenever territory is annexed by a municipality under this chapter, the
14 annexation may be appealed by filing with the circuit or superior court
15 of a county in which the annexed territory is located a written
16 remonstrance signed by:

17 (1) at least sixty-five percent (65%) of the owners of land in the
18 annexed territory; or

19 (2) the owners of more than seventy-five percent (75%) in
20 assessed valuation of the land in the annexed territory.

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

25 (b) This subsection applies only to an annexation for which an
26 annexation ordinance was adopted before July 1, 2015. On receipt of
27 the remonstrance, the court shall determine whether the remonstrance
28 has the necessary signatures. In determining the total number of
29 landowners of the annexed territory and whether signers of the
30 remonstrance are landowners, the names appearing on the tax duplicate
31 for that territory constitute prima facie evidence of ownership. Only
32 one (1) person having an interest in each single property, as evidenced
33 by the tax duplicate, is considered a landowner for purposes of this
34 section.

35 (c) This subsection applies only to an annexation for which an
36 annexation ordinance was adopted before July 1, 2015. If the court
37 determines that the remonstrance is sufficient, the court shall fix a time,
38 within sixty (60) days after the court's determination, for a hearing on
39 the remonstrance. Notice of the proceedings, in the form of a summons,
40 shall be served on the annexing municipality. The municipality is the
41 defendant in the cause and shall appear and answer.

42 (d) This subsection applies only to an annexation for which an



1 annexation ordinance was adopted after June 30, 2015, **and before**
 2 **April 1, 2022**. If the requirements of section 11.3(c) or (after
 3 December 31, 2016) section 11.4 of this chapter are met, the
 4 annexation may be appealed by filing with the circuit or superior court
 5 of a county in which the annexed territory is located:

- 6 (1) the signed remonstrances filed with the county auditor;
- 7 (2) the county auditor's certification under section 11.2(i) of this
 8 chapter;
- 9 (3) the annexation ordinance; and
- 10 (4) a statement of the reason why the annexation should not take
 11 place.

12 The remonstrance must be filed with the court not later than fifteen
 13 (15) business days after the date the county auditor files the certificate
 14 with the legislative body under section 11.2(i) of this chapter. After a
 15 remonstrance petition is filed with the court, any person who signed a
 16 remonstrance may file with the court a verified, written revocation of
 17 the person's opposition to the annexation.

18 ~~(c) 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 ~~(f)~~ (e) This subsection applies only to an annexation for which an
 23 annexation ordinance is adopted before July 1, 2015. This subsection
 24 applies if:

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

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

34 SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
 35 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: Sec. 11.1. (a) This section applies only to an
 37 annexation ordinance adopted after June 30, 2015, **and before April**
 38 **1, 2022**.

39 (b) After a municipality adopts an annexation ordinance in
 40 accordance with all applicable notice and hearing requirements under
 41 this chapter, the annexation may not proceed unless the annexing
 42 municipality completes the procedures set forth in this section.



1 (c) The proper officers of the municipality must give notice of the
2 applicability of the remonstrance process by providing notice by:

- 3 (1) publication in accordance with IC 5-3-1; and
4 (2) first class mail or certified mail with return receipt requested,
5 or any other means of delivery that includes a return receipt;

6 to the circuit court clerk and to owners of real property described in
7 section 2.2 of this chapter. Notice under this section must be published
8 and mailed or delivered on the same date that notice of the adoption of
9 the annexation ordinance is published under section 7 of this chapter.

10 (d) The notice of the applicability of the remonstrance process under
11 subsection (c) must state the following:

12 (1) Any owners of real property within the area proposed to be
13 annexed who want to remonstrate against the proposed
14 annexation must complete and file remonstrance petitions in
15 compliance with this chapter. The notice must state:

16 (A) that remonstrance petitions must be filed not later than
17 ninety (90) days after the date that notice of the adoption of the
18 annexation ordinance was published under section 7 of this
19 chapter; and

20 (B) the last date in accordance with clause (A) that
21 remonstrance petitions must be filed with the county auditor
22 to be valid.

23 (2) A remonstrance petition may be signed at the locations
24 provided by the municipality under subsection (e). The notice
25 must provide the following information regarding each location:

26 (A) The address of the location.

27 (B) The dates and hours during which a remonstrance petition
28 may be signed at the location.

29 (e) Beginning the day after publication of the notice under
30 subsection (c) and ending not later than ninety (90) days after
31 publication of the notice under subsection (c), the municipality shall
32 provide both of the following:

33 (1) At least one (1) location in the offices of the municipality
34 where a person may sign a remonstrance petition during regular
35 business hours.

36 (2) At least one (1) additional location that is available for at least
37 five (5) days, where a person may sign a remonstrance petition.

38 The location must meet the following requirements:

39 (A) The location must be in a public building:

- 40 (i) owned or leased by the state or a political subdivision,
41 including a public library, community center, or parks and
42 recreation building; and



- 1 (ii) located within the boundaries of the municipality or the
 2 annexation territory.
- 3 (B) The location must be open according to the following:
- 4 (i) On a day that the location is open on a weekday, the
 5 location must be open at a minimum from 5 p.m. to 9 p.m.
- 6 (ii) On a day that the location is open on a Saturday or
 7 Sunday, the location must be open at least four (4) hours
 8 during the period from 9 a.m. to 5 p.m.
- 9 (f) An additional location may not be open on a day that is a legal
 10 holiday. At any location and during the hours that a remonstrance
 11 petition may be signed, the municipality shall have a person present:
- 12 (1) to witness the signing of remonstrance petitions; and
 13 (2) who shall swear and affirm before a notary public that the
 14 person witnessed each person sign the remonstrance petition.
- 15 SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016,
 16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an
 18 annexation ordinance adopted after June 30, 2015, **and before April**
 19 **1, 2022.**
- 20 (b) A remonstrance petition may be filed by an owner of real
 21 property that:
- 22 (1) is within the area to be annexed;
 23 (2) was not exempt from property taxes under IC 6-1.1-10 or any
 24 other state law for the immediately preceding year; and
 25 (3) is not subject to a valid waiver of remonstrance.
- 26 (c) A remonstrance petition must comply with the following in order
 27 to be effective:
- 28 (1) Each signature on a remonstrance petition must be dated, and
 29 the date of the signature may not be earlier than the date on which
 30 the remonstrance forms may be issued by the county auditor
 31 under subsection (e)(7).
 32 (2) Each person who signs a remonstrance petition must indicate
 33 the address of the real property owned by the person in the area
 34 to be annexed.
 35 (3) A remonstrance petition must be verified in compliance with
 36 subsection (e).
- 37 (d) The state board of accounts shall design the remonstrance forms
 38 to be used solely in the remonstrance process described in this section.
 39 The state board of accounts shall provide the forms to the county
 40 auditor in an electronic format that permits the county auditor to copy
 41 or reproduce the forms using:
- 42 (1) the county auditor's own equipment; or



1 (2) a commercial copying service.
 2 The annexing municipality shall reimburse the county auditor for the
 3 cost of reproducing the remonstrance forms.
 4 (e) The county auditor's office shall issue remonstrance forms
 5 accompanied by instructions detailing all of the following
 6 requirements:
 7 (1) The closing date for the remonstrance period.
 8 (2) Only one (1) person having an interest in each single property
 9 as evidenced by the tax duplicate is considered an owner of
 10 property and may sign a remonstrance petition. A person is
 11 entitled to sign a petition only one (1) time in a remonstrance
 12 process, regardless of whether the person owns more than one (1)
 13 parcel of real property.
 14 (3) An individual may not be:
 15 (A) compensated for; or
 16 (B) reimbursed for expenses incurred in;
 17 circulating a remonstrance petition and obtaining signatures.
 18 (4) The remonstrance petition may be executed in several
 19 counterparts, the total of which constitutes the remonstrance
 20 petition. An affidavit of the person circulating a counterpart must
 21 be attached to the counterpart. The affidavit must state that each
 22 signature appearing on the counterpart was affixed in the person's
 23 presence and is the true and lawful signature of the signer. The
 24 affidavit must be notarized.
 25 (5) A remonstrance petition that is not executed in counterparts
 26 must be verified by the person signing the petition in the manner
 27 prescribed by the state board of accounts and notarized.
 28 (6) A remonstrance petition may be delivered to the county
 29 auditor's office in person or by:
 30 (A) certified mail, return receipt requested; or
 31 (B) any other means of delivery that includes a return receipt.
 32 The remonstrance petition must be postmarked not later than the
 33 closing date for the remonstrance period.
 34 (7) The county auditor's office may not issue a remonstrance
 35 petition earlier than the day that notice is published under section
 36 11.1 of this chapter. The county auditor's office shall certify the
 37 date of issuance on each remonstrance petition. Any person may
 38 pick up additional copies of the remonstrance petition to
 39 distribute to other persons.
 40 (8) A person who signs a remonstrance petition may withdraw the
 41 person's signature from a remonstrance petition before a
 42 remonstrance petition is filed with the county auditor by filing a



1 verified request to remove the person's name from the
 2 remonstrance petition. Names may not be added to a
 3 remonstrance petition after the remonstrance petition is filed with
 4 the county auditor.

5 (f) The county auditor shall prepare and update weekly a list of the
 6 persons who have signed a remonstrance petition. The list must include
 7 a statement that the list includes all persons who have signed a
 8 remonstrance petition as of a particular date, and does not represent a
 9 list of persons certified by the county auditor as actual landowners in
 10 the annexation territory using the auditor's current tax records under
 11 subsection (i). The county auditor shall post the list in the office of the
 12 county auditor. The list is a public record under IC 5-14-3.

13 (g) Not later than five (5) business days after receiving the
 14 remonstrance petition, the county auditor shall submit a copy of the
 15 remonstrance petition to the legislative body of the annexing
 16 municipality.

17 (h) Not later than fifteen (15) business days after the legislative
 18 body of the annexing municipality receives a copy of the remonstrance
 19 petition from the county auditor, the annexing municipality shall
 20 provide documentation to the county auditor regarding any valid waiver
 21 of the right of remonstrance that exists on the property within the
 22 annexation territory.

23 (i) Not later than fifteen (15) business days after receiving the
 24 documentation regarding any valid waiver of the right of remonstrance
 25 from the annexing municipality under subsection (h), if any, the county
 26 auditor's office shall make a final determination of the number of
 27 owners of real property within the territory to be annexed:

28 (1) who signed the remonstrance; and

29 (2) whose property is not subject to a valid waiver of the right of
 30 remonstrance;

31 using the auditor's current tax records as provided in section 2.2 of this
 32 chapter. The county auditor shall file a certificate with the legislative
 33 body of the annexing municipality certifying the number of property
 34 owners not later than five (5) business days after making the
 35 determination.

36 SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015,
 37 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 11.3. (a) This section applies only to an
 39 annexation ordinance adopted after June 30, 2015, **and before April**
 40 **1, 2022.**

41 (b) An annexation ordinance is void if a written remonstrance
 42 petition is signed by one (1) of the following:



1 (1) At least sixty-five percent (65%) of the owners of land in the
2 annexed territory. An owner of land may not:

3 (A) be counted in calculating the total number of owners of
4 land in the annexation territory; or

5 (B) have the owner's signature counted on a remonstrance;
6 with regard to any single property that an owner has an interest in
7 that was exempt from property taxes under IC 6-1.1-10 or any
8 other state law for the immediately preceding year.

9 (2) The owners of at least eighty percent (80%) in assessed
10 valuation of the land in the annexed territory. Land that was
11 exempt from property taxes under IC 6-1.1-10 or any other state
12 law for the immediately preceding year may not be included in
13 calculating the total assessed valuation of the land in the
14 annexation territory. The court may not count the owner's
15 signature on a remonstrance with regard to any single property
16 that the owner has an interest in that was exempt from property
17 taxes under IC 6-1.1-10 or any other state law for the immediately
18 preceding year.

19 (c) The annexation may be appealed to the court under section 11
20 of this chapter, if a written remonstrance is signed by one (1) of the
21 following:

22 (1) At least fifty-one percent (51%) but less than sixty-five
23 percent (65%) of the owners of land. An owner of land may not:

24 (A) be counted in calculating the total number of owners of
25 land in the annexation territory; or

26 (B) have the owner's signature counted on a remonstrance;
27 with regard to any single property that the owner has an interest
28 in that was exempt from property taxes under IC 6-1.1-10 or any
29 other state law for the immediately preceding year.

30 (2) The owners of at least sixty percent (60%) but less than eighty
31 percent (80%) in assessed valuation of land in the annexed
32 territory. Land that was exempt from property taxes under
33 IC 6-1.1-10 or any other state law for the immediately preceding
34 year may not be included in calculating the total assessed
35 valuation of the land in the annexation territory. The court may
36 not count an owner's signature on a remonstrance with regard to
37 any single property that the owner has an interest in that was
38 exempt from property taxes under IC 6-1.1-10 or any other state
39 law for the immediately preceding year.

40 SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015,
41 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 11.4. (a) This section applies only to an



- 1 annexation that ~~the~~ meets all of the following requirements:
- 2 (1) The annexation ordinance is adopted after December 31,
3 2016, **and before April 1, 2022.**
- 4 (2) Notwithstanding the contiguity requirements of section 1.5 of
5 this chapter, at least one-tenth (1/10) of the aggregate external
6 boundaries of the territory sought to be annexed coincides with
7 the boundaries of:
- 8 (A) the municipality; and
9 (B) the site of an economic development project.
- 10 (b) As used in this section, "economic development project" means
11 any project developed by the municipality that meets all of the
12 following requirements:
- 13 (1) The annexing municipality determines that the project will:
- 14 (A) promote significant opportunities for the gainful
15 employment of its citizens;
16 (B) attract a major new business enterprise to the municipality;
17 or
18 (C) retain or expand a significant business enterprise within
19 the municipality.
- 20 (2) The project involves expenditures by the annexing
21 municipality for any of the following:
- 22 (A) Land acquisition, interests in land, site improvements,
23 infrastructure improvements, buildings, or structures.
24 (B) Rehabilitation, renovation, and enlargement of buildings
25 and structures.
26 (C) Machinery, equipment, furnishings, or facilities.
27 (D) Substance removal or remedial action.
- 28 (c) Notwithstanding section 11.3(b) of this chapter, even if a
29 remonstrance has enough signatures to satisfy the requirements of
30 section 11.3(b) of this chapter, the annexation ordinance is not void and
31 may be appealed to the court under section 11 of this chapter, if all of
32 the following requirements are met:
- 33 (1) The economic development project site needs the following
34 capital services that the municipality is lawfully able to provide:
- 35 (A) water;
36 (B) sewer;
37 (C) gas; or
38 (D) any combination of the capital services described in
39 clauses (A) through (C).
- 40 (2) The municipality finds that it is in the municipality's best
41 interest to annex the annexation territory in order to extend,
42 construct, or operate the capital services that are provided to the



1 economic development project site.

2 (3) Before the date the annexation ordinance is adopted, a
3 taxpayer whose business will occupy the economic development
4 project site has done at least one (1) of the following:

5 (A) Filed a statement of benefits under IC 6-1.1-12.1 with the
6 designating body for the annexing municipality for a deduction
7 or abatement.

8 (B) Entered into an agreement with the Indiana economic
9 development corporation for a credit under IC 6-3.1-13.

10 (d) If the economic development project:

11 (1) has not commenced within twelve (12) months after the date
12 the annexation ordinance is adopted; or

13 (2) is not completed within thirty-six (36) months after the date
14 the annexation ordinance is adopted;

15 the annexation territory is disannexed from the municipality and reverts
16 to the jurisdiction of the unit having jurisdiction before the annexation.
17 For purposes of this subsection, ~~a~~ **an** economic development project is
18 considered to have commenced on the day that the physical erection,
19 installation, alteration, repair, or remodeling of a building or structure
20 commences on the site of the economic development project.

21 SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a)** A
23 landowner in an unincorporated area is not required to grant a
24 municipality a waiver against remonstrance as a condition of
25 connection to a sewer or water service if all of the following conditions
26 apply:

27 (1) The landowner is required to connect to the sewer or water
28 service because a person other than the landowner has polluted or
29 contaminated the area.

30 (2) A person other than the landowner or the municipality has
31 paid the cost of connection to the service.

32 **(b) Notwithstanding any other law, a waiver against**
33 **remonstrance is effective and binding on a landowner or a**
34 **successor in title only with regard to an annexation for which the**
35 **annexation ordinance was adopted before April 1, 2022.**

36 SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015,
37 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 11.6. (a) This section applies to a
39 remonstrance filed after June 30, 2015, **and before April 1, 2022.**

40 (b) If the court orders an annexation not to take place after a hearing
41 under section 11 of this chapter, the remonstrators shall be reimbursed
42 by the annexing municipality for any reasonable attorney's fees,



1 including litigation expenses and appeal costs:

2 (1) that are incurred:

3 (A) after the date the annexation ordinance is adopted; and

4 (B) in remonstrating against the annexation; and

5 (2) not to exceed thirty-seven thousand five hundred dollars
6 (\$37,500).

7 SECTION 18. IC 36-4-3-11.7, AS AMENDED BY P.L.257-2019,
8 SECTION 112, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: Sec. 11.7. (a) This subsection
10 applies to any deed recorded after June 30, 2015. This subsection
11 applies only to property that is subject to a remonstrance waiver. A
12 municipality shall, within a reasonable time after the recording of a
13 deed to property located within the municipality, provide written notice
14 to the property owner that a waiver of the right of remonstrance exists
15 with respect to the property.

16 (b) A remonstrance waiver executed before July 1, 2003, is void.
17 This subsection does not invalidate an annexation that was effective on
18 or before July 1, 2019.

19 (c) A remonstrance waiver executed after June 30, 2003, and before
20 July 1, 2019, is subject to the following:

21 (1) The waiver is void unless the waiver was recorded:

22 (A) before January 1, 2020; and

23 (B) with the county recorder of the county where the property
24 subject to the waiver is located.

25 (2) A waiver that is not void under subdivision (1) expires not
26 later than fifteen (15) years after the date the waiver is executed.

27 This subsection does not invalidate an annexation that was effective on
28 or before July 1, 2019.

29 (d) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
30 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must be**
31 ~~recorded~~ ~~(A) not later than thirty (30) business days after the date the~~
32 ~~waiver was executed~~ ~~and~~ ~~(B) with the county recorder of the county~~
33 ~~where the property subject to the waiver is located.~~ ~~(2) A waiver that~~
34 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
35 ~~years after the date the waiver is executed.~~ This subsection does not
36 invalidate an annexation that was effective on or before July 1, 2019.

37 **(e) Notwithstanding any other law, a remonstrance waiver is**
38 **effective and binding on a landowner or a successor in title only**
39 **with regard to an annexation for which the annexation ordinance**
40 **was adopted before April 1, 2022.**

41 SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
42 SECTION 117, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit or superior
2 court shall:

3 (1) on the date fixed under:

4 (A) section 11 of this chapter **(in the case of an annexation**
5 **for which an annexation ordinance is adopted before April**
6 **1, 2022)**, hear and determine the remonstrance without a jury;
7 **or**

8 **(B) section 5.5 of this chapter (in the case of an annexation**
9 **for which an annexation ordinance is adopted after March**
10 **31, 2022), hear and determine the petition without a jury;**
11 **and**

12 (2) without delay, enter judgment on the question of the
13 annexation according to the evidence that either party may
14 introduce.

15 ~~(b) If the court enters judgment in favor of the annexation, the~~
16 ~~annexation may not take effect during the year preceding the year in~~
17 ~~which a federal decennial census is conducted. An annexation that~~
18 ~~would otherwise take effect during the year preceding a year in which~~
19 ~~a federal decennial census is conducted takes effect January 1 of the~~
20 ~~year in which a federal decennial census is conducted.~~

21 SECTION 20. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (e),
24 at the hearing under section 12 of this chapter, the court shall order a
25 proposed annexation to take place if the following requirements are
26 met:

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

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

29 (3) The requirements of subsection (i) **(in the case of an**
30 **annexation for which an annexation ordinance is adopted**
31 **before April 1, 2022).**

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

34 (1) That the territory sought to be annexed is contiguous to the
35 municipality.

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

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

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

40 (C) The territory is zoned for commercial, business, or
41 industrial uses.

42 (c) The requirements of this subsection are met if the evidence



- 1 establishes one (1) of the following:
- 2 (1) That the territory sought to be annexed is:
- 3 (A) contiguous to the municipality as required by section 1.5
- 4 of this chapter, except that at least one-fourth (1/4), instead of
- 5 one-eighth (1/8), of the aggregate external boundaries of the
- 6 territory sought to be annexed must coincide with the
- 7 boundaries of the municipality; and
- 8 (B) needed and can be used by the municipality for its
- 9 development in the reasonably near future.
- 10 (2) This subdivision applies only to an annexation for which an
- 11 annexation ordinance is adopted after December 31, 2016, **and**
- 12 **before April 1, 2022.** That the territory sought to be annexed
- 13 involves an economic development project and the requirements
- 14 of section 11.4 of this chapter are met.
- 15 (d) The requirements of this subsection are met if the evidence
- 16 establishes that the municipality has developed and adopted a written
- 17 fiscal plan and has established a definite policy, by resolution of the
- 18 legislative body as set forth in section 3.1 of this chapter. The fiscal
- 19 plan must show the following:
- 20 (1) The cost estimates of planned services to be furnished to the
- 21 territory to be annexed. The plan must present itemized estimated
- 22 costs for each municipal department or agency.
- 23 (2) The method or methods of financing the planned services. The
- 24 plan must explain how specific and detailed expenses will be
- 25 funded and must indicate the taxes, grants, and other funding to
- 26 be used.
- 27 (3) The plan for the organization and extension of services. The
- 28 plan must detail the specific services that will be provided and the
- 29 dates the services will begin.
- 30 (4) That planned services of a noncapital nature, including police
- 31 protection, fire protection, street and road maintenance, and other
- 32 noncapital services normally provided within the corporate
- 33 boundaries, will be provided to the annexed territory within one
- 34 (1) year after the effective date of annexation and that they will be
- 35 provided in a manner equivalent in standard and scope to those
- 36 noncapital services provided to areas within the corporate
- 37 boundaries regardless of similar topography, patterns of land use,
- 38 and population density.
- 39 (5) That services of a capital improvement nature, including street
- 40 construction, street lighting, sewer facilities, water facilities, and
- 41 ~~stormwater~~ **storm water** drainage facilities, will be provided to
- 42 the annexed territory within three (3) years after the effective date



1 of the annexation in the same manner as those services are
 2 provided to areas within the corporate boundaries, regardless of
 3 similar topography, patterns of land use, and population density,
 4 and in a manner consistent with federal, state, and local laws,
 5 procedures, and planning criteria.

6 (6) This subdivision applies to a fiscal plan prepared after June
 7 30, 2015. The estimated effect of the proposed annexation on
 8 taxpayers in each of the political subdivisions to which the
 9 proposed annexation applies, including the expected tax rates, tax
 10 levies, expenditure levels, service levels, and annual debt service
 11 payments in those political subdivisions for four (4) years after
 12 the effective date of the annexation.

13 (7) This subdivision applies to a fiscal plan prepared after June
 14 30, 2015. The estimated effect the proposed annexation will have
 15 on municipal finances, specifically how municipal tax revenues
 16 will be affected by the annexation for four (4) years after the
 17 effective date of the annexation.

18 (8) This subdivision applies to a fiscal plan prepared after June
 19 30, 2015. Any estimated effects on political subdivisions in the
 20 county that are not part of the annexation and on taxpayers
 21 located in those political subdivisions for four (4) years after the
 22 effective date of the annexation.

23 (9) This subdivision applies to a fiscal plan prepared after June
 24 30, 2015. A list of all parcels of property in the annexation
 25 territory and the following information regarding each parcel:

26 (A) The name of the owner of the parcel.

27 (B) The parcel identification number.

28 (C) The most recent assessed value of the parcel.

29 (D) The existence of a known waiver of the right to
 30 remonstrate on the parcel. This clause applies only to a fiscal
 31 plan prepared after June 30, 2016, **and before April 1, 2022.**

32 (e) At the hearing under section 12 of this chapter **with regard to**
 33 **an annexation for which an annexation ordinance was adopted**
 34 **before April 1, 2022**, the court shall do the following:

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

36 (2) Order a proposed annexation not to take place if the court
 37 finds that all of the following conditions that are applicable to the
 38 annexation exist in the territory proposed to be annexed:

39 (A) This clause applies only to an annexation for which an
 40 annexation ordinance was adopted before July 1, 2015. The
 41 following services are adequately furnished by a provider
 42 other than the municipality seeking the annexation:



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(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

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

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

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015, **and before April 1, 2022**. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five



1 percent (75%) of the owners of land in the territory proposed
 2 to be annexed oppose the annexation as determined under
 3 section 11(b) of this chapter.

4 **(f) This subsection applies only to an annexation for which an**
 5 **annexation ordinance is adopted before April 1, 2022.** The
 6 municipality under subsection (e)(2)(C) bears the burden of proving
 7 that the annexation is in the best interests of the owners of land in the
 8 territory proposed to be annexed. In determining this issue, the court
 9 may consider whether the municipality has extended sewer or water
 10 services to the entire territory to be annexed:

- 11 (1) within the three (3) years preceding the date of the
 12 introduction of the annexation ordinance; or
 13 (2) under a contract in lieu of annexation entered into under
 14 IC 36-4-3-21.

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

18 (g) The most recent:

- 19 (1) federal decennial census;
 20 (2) federal special census;
 21 (3) special tabulation; or
 22 (4) corrected population count;

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

26 (h) A municipality that prepares a fiscal plan after June 30, 2015,
 27 must comply with this subsection. A municipality may not amend the
 28 fiscal plan after the date that:

- 29 **(1) a remonstrance is filed with the court under section 11 of this**
 30 **chapter (in the case of an annexation for which an annexation**
 31 **ordinance was adopted before April 1, 2022); or**
 32 **(2) a petition is filed with the court under section 5.5 of this**
 33 **chapter (in the case of an annexation for which an annexation**
 34 **ordinance was adopted after March 31, 2022);**

35 unless amendment of the fiscal plan is consented to by at least
 36 ~~sixty-five percent (65%)~~ of the persons who signed the remonstrance
 37 **or the petition.**

38 (i) The municipality must submit proof that the municipality has
 39 complied with:

- 40 ~~(A)~~ **(1) the outreach program requirements and notice**
 41 **requirements of section 1.7 of this chapter; and**
 42 ~~(B)~~ **(2) the requirements of section 11.1 of this chapter (in the**



1 **case of an annexation for which an annexation ordinance was**
 2 **adopted after June 30, 2015, and before April 1, 2022).**

3 SECTION 21. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
 4 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 15. (a) The court's judgment under section 12
 6 or 15.5 of this chapter must specify the annexation ordinance. ~~on which~~
 7 ~~the remonstrance is based.~~ The clerk of the court shall deliver a
 8 certified copy of the final and unappealable judgment to the clerk of the
 9 municipality. The clerk of the municipality shall:

- 10 (1) record the judgment in the clerk's ordinance record; and
 11 (2) make a cross-reference to the record of the judgment on the
 12 margin of the record of the annexation ordinance.

13 (b) If a final and unappealable judgment under section 12 or 15.5 of
 14 this chapter is adverse to annexation, the municipality may not make
 15 further attempts to annex the territory or any part of the territory during
 16 the four (4) years after the later of:

- 17 (1) the judgment of the circuit or superior court; or
 18 (2) the date of the final disposition of all appeals to a higher court;
 19 unless the annexation is petitioned for under section 5 or 5.1 of this
 20 chapter.

21 (c) This subsection applies if a municipality repeals the annexation
 22 ordinance:

- 23 (1) less than sixty-one (61) days after the publication of the
 24 ordinance under section 7(a) of this chapter; and
 25 (2) before the hearing commences:

26 (A) on the remonstrance under section 11(c) of this chapter (**in**
 27 **the case of an annexation for which an annexation**
 28 **ordinance is adopted before April 1, 2022); or**

29 (B) **on the petition under section 12 of this chapter (in the**
 30 **case of an annexation for which an annexation ordinance**
 31 **is adopted after March 31, 2022).**

32 A municipality may not make further attempts to annex the territory or
 33 any part of the territory during the twelve (12) months after the date the
 34 municipality repeals the annexation ordinance. This subsection does
 35 not prohibit an annexation of the territory or part of the territory that is
 36 petitioned for under section 5 or 5.1 of this chapter.

37 (d) This subsection applies if a municipality repeals the annexation
 38 ordinance:

- 39 (1) at least sixty-one (61) days but not more than one hundred
 40 twenty (120) days after the publication of the ordinance under
 41 section 7(a) of this chapter; and
 42 (2) before the hearing commences:



1 (A) on the remonstrance under section 11(c) of this chapter (**in**
 2 **the case of an annexation for which an annexation**
 3 **ordinance is adopted before April 1, 2022); or**
 4 **(B) on the petition under section 12 of this chapter (in the**
 5 **case of an annexation for which an annexation ordinance**
 6 **is adopted after March 31, 2022).**

7 A municipality may not make further attempts to annex the territory or
 8 any part of the territory during the twenty-four (24) months after the
 9 date the municipality repeals the annexation ordinance. This subsection
 10 does not prohibit an annexation of the territory or part of the territory
 11 that is petitioned for under section 5 or 5.1 of this chapter.

12 (e) This subsection applies if a municipality repeals the annexation
 13 ordinance:

14 (1) either:

15 (A) at least one hundred twenty-one (121) days after
 16 publication of the ordinance under section 7(a) of this chapter
 17 but before the hearing commences:

18 (i) on the remonstrance under section 11(c) of this chapter
 19 **(in the case of an annexation for which an annexation**
 20 **ordinance is adopted before April 1, 2022); or**

21 **(ii) on the petition under section 12 of this chapter (in the**
 22 **case of an annexation for which an annexation ordinance**
 23 **is adopted after March 31, 2022); or**

24 (B) after the hearing commences:

25 (i) on the remonstrance as set forth in section 11(c) of this
 26 chapter **(in the case of an annexation for which an**
 27 **annexation ordinance is adopted before April 1, 2022);**
 28 **or**

29 **(ii) on the petition under section 12 of this chapter (in the**
 30 **case of an annexation for which an annexation ordinance**
 31 **is adopted after March 31, 2022); and**

32 (2) before the date of the judgment of the circuit or superior court
 33 as set forth in subsection (b).

34 A municipality may not make further attempts to annex the territory or
 35 any part of the territory during the forty-two (42) months after the date
 36 the municipality repeals the annexation ordinance. This subsection
 37 does not prohibit an annexation of the territory or part of the territory
 38 that is petitioned for under section 5 or 5.1 of this chapter.

39 (f) An annexation is effective when the clerk of the municipality
 40 complies with the filing requirement of section 22(a) of this chapter.

41 SECTION 22. IC 36-4-3-15.3, AS AMENDED BY P.L.156-2020,
 42 SECTION 138, IS AMENDED TO READ AS FOLLOWS

SB 73—LS 6364/DI 87



1 [EFFECTIVE UPON PASSAGE]: Sec. 15.3. (a) As used in this
 2 section, "prohibition against annexation" means that a municipality
 3 may not make further attempts to annex certain territory or any part of
 4 that territory.

5 (b) As used in this section, "settlement agreement" means a written
 6 court approved settlement of a dispute involving annexation under this
 7 chapter between a municipality and remonstrators.

8 (c) Under a settlement agreement between the annexing
 9 municipality and either:

10 (1) seventy-five percent (75%) or more of all landowners
 11 participating in the remonstrance; or

12 (2) the owners of more than seventy-five percent (75%) in
 13 assessed valuation of the land owned by all landowners
 14 participating in the remonstrance;

15 the parties may mutually agree to a prohibition against annexation of
 16 all or part of the territory by the municipality for a period not to exceed
 17 twenty (20) years. The settlement agreement may address issues and
 18 bind the parties to matters relating to the provision by a municipality
 19 of planned services of a noncapital nature and services of a capital
 20 improvement nature (as described in section 13(d) of this chapter), in
 21 addition to a prohibition against annexation. The settlement agreement
 22 is binding upon the successors, heirs, and assigns of the parties to the
 23 agreement. However, the settlement agreement may be amended or
 24 revised periodically on further agreement between the annexing
 25 municipality and landowners who meet the qualifications of
 26 subdivision (1) or (2).

27 **(d) A settlement agreement executed after March 31, 2022, is**
 28 **void.**

29 SECTION 23. IC 36-4-3-15.5, AS AMENDED BY P.L.207-2014,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 15.5. (a) Except as provided in subsection (b):

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

34 (2) a municipality located in the same county as the territory
 35 proposed to be annexed;

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

42 (b) This subsection applies to an annexation initiated by property



1 owners under section 5.1 of this chapter in which all property owners
 2 within the area to be annexed petition the municipality to be annexed.
 3 Either of the following may appeal that annexation to a circuit court or
 4 superior court of a county in which the annexed territory is located:

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

7 (2) A municipality located in the same county as the territory
 8 proposed to be annexed.

9 An appeal under this subsection must be filed not later than thirty (30)
 10 days after the publication of the annexation ordinance. The complaint
 11 must state that the reason the annexation should not take place is that
 12 the territory sought to be annexed is not contiguous to the annexing
 13 municipality.

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

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

38 SECTION 24. IC 36-4-3-16 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **This**
 40 **section does not apply to an annexation under:**

41 (1) section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter; or

42 (2) section 5.1 of this chapter for which an annexation



ordinance is adopted after March 31, 2022.

~~(a)~~ (b) Within one (1) year after the expiration of:

- (1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; or
- (2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter;

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

~~(b)~~ (c) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

- (1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.
- (2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.
- (3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

~~(c)~~ (d) The court may:

- (1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;
- (2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;
- (3) order the annexed territory or any part of it to be disannexed from the municipality;
- (4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or
- (5) grant any other appropriate relief.

~~(d)~~ (e) A change of venue from the county is not permitted for an



1 action brought under this section.

2 (e) (f) If the court finds for the plaintiff, the defendant shall pay all
3 court costs and reasonable attorney's fees as approved by the court.

4 (f) (g) The provisions of this chapter that apply to territory
5 disannexed by other procedures apply to territory disannexed under this
6 section.

7 SECTION 25. IC 36-4-3-19, AS AMENDED BY P.L.38-2021,
8 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 19. (a) If disannexation is ordered under this
10 chapter by the works board of a municipality and no appeal is taken,
11 the clerk of the municipality shall, without compensation and not later
12 than ten (10) days after the order is made, make and certify a complete
13 transcript of the disannexation proceedings to the auditor of each
14 county in which the disannexed lots or lands lie and to the office of the
15 secretary of state. The county auditor shall list those lots or lands
16 appropriately for taxation. The proceedings of the works board shall not
17 be certified to the county auditor or to the office of the secretary of
18 state if an appeal to the circuit court has been taken.

19 (b) In all proceedings begun in or appealed to the circuit court, if
20 vacation or disannexation is ordered, the clerk of the court shall
21 immediately after the judgment of the court, or after a decision on
22 appeal to the supreme court or court of appeals if the judgment on
23 appeal is not reversed, certify the judgment of the circuit court, as
24 affirmed or modified, to each of the following:

- 25 (1) The auditor of each county in which the lands or lots affected
26 lie, on receipt of one dollar (\$1) for the making and certifying of
27 the transcript from the petitioners for the disannexation.
- 28 (2) The office of the secretary of state.
- 29 (3) The circuit court clerk of each county in which the lands or
30 lots affected are located.
- 31 (4) The county election board of each county in which the lands
32 or lots affected are located.
- 33 (5) If a board of registration exists, the board of each county in
34 which the lands or lots affected are located.
- 35 (6) The office of census data established by IC 2-5-1.1-12.2.

36 (c) The county auditor shall forward a list of lots or lands
37 disannexed under this section to the following:

- 38 (1) The county highway department of each county in which the
39 lands or lots affected are located.
- 40 (2) The county surveyor of each county in which the lands or lots
41 affected are located.
- 42 (3) Each plan commission, if any, that lost or gained jurisdiction



- 1 over the disannexed territory.
- 2 (4) The township trustee of each township that lost or gained
- 3 jurisdiction over the disannexed territory.
- 4 (5) The sheriff of each county in which the lands or lots affected
- 5 are located.
- 6 (6) The office of the secretary of state.
- 7 (7) The office of census data established by IC 2-5-1.1-12.2.
- 8 (8) The department of local government finance, not later than
- 9 August 1, in the manner described by the department.
- 10 The county auditor may require the clerk of the municipality to furnish
- 11 an adequate number of copies of the list of disannexed lots or lands or
- 12 may charge the clerk a fee for photoreproduction of the list.
- 13 (d) A disannexation described by this section takes effect upon the
- 14 clerk of the municipality filing the order with:
 - 15 (1) the county auditor of each county in which the annexed
 - 16 territory is located; and
 - 17 (2) the circuit court clerk, or if a board of registration exists, the
 - 18 board of each county in which the annexed territory is located.
- 19 (e) The clerk of the municipality shall notify the office of the
- 20 secretary of state and the office of census data established by
- 21 IC 2-5-1.1-12.2 of the date a disannexation is effective under this
- 22 chapter.
- 23 ~~(f) A disannexation order under this chapter may not take effect~~
- 24 ~~during the year preceding a year in which a federal decennial census is~~
- 25 ~~conducted. A disannexation order that would otherwise take effect~~
- 26 ~~during the year preceding a year in which a federal decennial census is~~
- 27 ~~conducted takes effect January 1 of the year in which a federal~~
- 28 ~~decennial census is conducted.~~
- 29 SECTION 26. IC 36-4-3-22, AS AMENDED BY P.L.38-2021,
- 30 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall file:
 - 32 (1) each annexation ordinance:
 - 33 (A) against which:
 - 34 ~~(A)~~ (i) a remonstrance **(in the case of an annexation for**
 - 35 **which an annexation ordinance is adopted before April**
 - 36 **1, 2022);** or
 - 37 (ii) an appeal;
 - 38 has not been filed during the period permitted under this
 - 39 chapter; or
 - 40 (B) **against which** a remonstrance was filed without a
 - 41 sufficient number of signatures to meet the requirements of
 - 42 section 11.3(c) of this chapter, in the case of an annexation for



- 1 which an annexation ordinance was adopted after June 30,
2 2015, **and before April 1, 2022**; or
- 3 (2) the certified copy of a final and unappealable judgment
4 ordering an annexation to take place;
5 with the county auditor, circuit court clerk, and board of registration (if
6 a board of registration exists) of each county in which the annexed
7 territory is located, the office of the secretary of state, and the office of
8 census data established by IC 2-5-1.1-12.2. The clerk of the
9 municipality shall record each annexation ordinance adopted under this
10 chapter in the office of the county recorder of each county in which the
11 annexed territory is located.
- 12 (b) The ordinance or judgment must be filed and recorded no later
13 than ninety (90) days after:
- 14 (1) the expiration of the period permitted for:
- 15 (A) a remonstrance **(in the case of an annexation for which**
16 **an annexation ordinance is adopted before April 1, 2022)**;
17 or
18 **(B) an appeal under section 15.5 of this chapter;**
- 19 (2) the delivery of a certified order under section 15 of this
20 chapter; or
- 21 (3) the date the county auditor files the written certification with
22 the legislative body under section 11.2 of this chapter, in the case
23 of an annexation:
- 24 (A) described in subsection (a)(1)(B); **and**
25 **(B) for which an annexation ordinance is adopted before**
26 **April 1, 2022.**
- 27 (c) Failure to record the annexation ordinance as provided in
28 subsection (a) does not invalidate the ordinance.
- 29 (d) The county auditor shall forward a copy of any annexation
30 ordinance filed under this section to the following:
- 31 (1) The county highway department of each county in which the
32 lots or lands affected are located.
- 33 (2) The county surveyor of each county in which the lots or lands
34 affected are located.
- 35 (3) Each plan commission, if any, that lost or gained jurisdiction
36 over the annexed territory.
- 37 (4) The sheriff of each county in which the lots or lands affected
38 are located.
- 39 (5) The township trustee of each township that lost or gained
40 jurisdiction over the annexed territory.
- 41 (6) The office of the secretary of state.
- 42 (7) The office of census data established by IC 2-5-1.1-12.2.



1 (8) The department of local government finance, not later than
2 August 1, in the manner described by the department.

3 (e) The county auditor may require the clerk of the municipality to
4 furnish an adequate number of copies of the annexation ordinance or
5 may charge the clerk a fee for photoreproduction of the ordinance. The
6 county auditor shall notify the office of the secretary of state and the
7 office of census data established by IC 2-5-1.1-12.2 of the date that the
8 annexation ordinance is effective under this chapter.

9 (f) The county auditor or county surveyor shall, upon determining
10 that an annexation ordinance has become effective under this chapter,
11 indicate the annexation upon the property taxation records maintained
12 in the office of the auditor or the office of the county surveyor.

13 SECTION 27. IC 36-4-7-7 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fiscal
15 officer shall present the report of budget estimates to the city legislative
16 body under IC 6-1.1-17. After reviewing the report, the legislative body
17 shall prepare an ordinance fixing the rate of taxation for the ensuing
18 budget year and an ordinance making appropriations for the estimated
19 department budgets and other city purposes during the ensuing budget
20 year. The legislative body, in the appropriation ordinance, may reduce
21 any estimated item from the figure submitted in the report of the fiscal
22 officer, but it may increase an item only if the executive recommends
23 an increase. The legislative body shall promptly act on the
24 appropriation ordinance.

25 (b) In preparing the ordinances described in subsection (a), the
26 legislative body shall make an allowance for the cost of fire protection
27 to annexed territory described in ~~IC 36-4-3-7(d)~~, **IC 36-4-3-7(e)**, for
28 the year fire protection is first offered to that territory.

29 SECTION 28. IC 36-9-22-2, AS AMENDED BY P.L.156-2020,
30 SECTION 148, IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The power of the
32 municipal works board to fix the terms of a contract under this section
33 applies to contracts for the installation of sewage works that have not
34 been finally approved or accepted for full maintenance and operation
35 by the municipality on July 1, 1979.

36 (b) The works board of a municipality may contract with owners of
37 real property for the construction of sewage works within the
38 municipality or within four (4) miles outside its corporate boundaries
39 in order to provide service for the area in which the real property of the
40 owners is located. The contract must provide, for a period of not to
41 exceed fifteen (15) years, for the payment to the owners and their
42 assigns by any owner of real property who:



- 1 (1) did not contribute to the original cost of the sewage works;
 2 and
 3 (2) subsequently taps into, uses, or deposits sewage or storm
 4 waters in the sewage works or any lateral sewers connected to
 5 them;
 6 of a fair pro rata share of the cost of the construction of the sewage
 7 works, subject to the rules of the board and notwithstanding any other
 8 law relating to the functions of local governmental entities. However,
 9 the contract does not apply to any owner of real property who is not a
 10 party to the contract unless the contract or (after June 30, 2013) a
 11 signed memorandum of the contract has been recorded in the office of
 12 the recorder of the county in which the real property of the owner is
 13 located before the owner taps into or connects to the sewers and
 14 facilities. The board may provide that the fair pro rata share of the cost
 15 of construction includes interest at a rate not exceeding the amount of
 16 interest allowed on judgments, and the interest shall be computed from
 17 the date the sewage works are approved until the date payment is made
 18 to the municipality.
- 19 (c) The contract must include, as part of the consideration running
 20 to the municipality, the release of the right of:
 21 (1) the parties to the contract; and
 22 (2) the successors in title of the parties to the contract;
 23 to remonstrate against pending or future annexations by the
 24 municipality of the area served by the sewage works. Any person
 25 tapping into or connecting to the sewage works contracted for is
 26 considered to waive the person's rights to remonstrate against the
 27 annexation of the area served by the sewage works.
- 28 (d) Notwithstanding subsection (c), the works board of a
 29 municipality may waive the provisions of subsection (c) in the contract
 30 if:
 31 (1) the works board considers a waiver of subsection (c) to be in
 32 the best interests of the municipality; or
 33 (2) the contract involves connection to the sewage works under
 34 IC 36-9-22.5.
- 35 (e) This subsection does not affect any rights or liabilities accrued,
 36 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 37 proceedings continue and shall be imposed and enforced under prior
 38 law as if this subsection had not been enacted. For contracts executed
 39 after June 30, 2013, if the release of the right to remonstrate is not void
 40 under subsection (i), (j), or (k), the release is binding on a successor in
 41 title to a party to the contract only if the successor in title:
 42 (1) has actual notice of the release; or



- 1 (2) has constructive notice of the release because the contract, or
 2 a signed memorandum of the contract stating the release, has been
 3 recorded in the chain of title of the property.
- 4 (f) Subsection (c) does not apply to a landowner if all of the
 5 following conditions apply:
- 6 (1) The landowner is required to connect to the sewage works
 7 because a person other than the landowner has polluted or
 8 contaminated the area.
- 9 (2) The costs of extension of or connection to the sewage works
 10 are paid by a person other than the landowner or the municipality.
- 11 (g) Subsection (c) does not apply to a landowner who taps into,
 12 connects to, or is required to tap into or connect to the sewage works
 13 of a municipality only because the municipality provides wholesale
 14 sewage service (as defined in IC 8-1-2-61.7) to another municipality
 15 that provides sewage service to the landowner.
- 16 (h) This subsection applies to any deed recorded after June 30,
 17 2015. This subsection applies only to property that is subject to a
 18 remonstrance waiver. A municipality shall provide written notice to
 19 any successor in title to property within a reasonable time after the
 20 deed is recorded, that a waiver of the right of remonstrance exists with
 21 respect to the property.
- 22 (i) A remonstrance waiver executed on or before July 1, 2003, is
 23 void. This subsection does not invalidate an annexation that was
 24 effective on or before July 1, 2019.
- 25 (j) A remonstrance waiver executed after June 30, 2003, and not
 26 later than June 30, 2019, is subject to the following:
- 27 (1) The waiver is void unless the waiver was recorded:
- 28 (A) before January 1, 2020; and
 29 (B) with the county recorder of the county where the property
 30 subject to the waiver is located.
- 31 (2) A waiver that is not void under subdivision (1) **or subsection**
 32 **(I)** expires not later than fifteen (15) years after the date the
 33 waiver is executed.
- 34 This subsection does not invalidate an annexation that was effective on
 35 or before July 1, 2019.
- 36 (k) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
 37 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must** ~~be~~
 38 recorded ~~(A)~~ not later than thirty (30) business days after the date the
 39 waiver was executed ~~and (B)~~ with the county recorder of the county
 40 where the property subject to the waiver is located. ~~(2) A waiver that~~
 41 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
 42 ~~years after the date the waiver is executed.~~ This subsection does not



1 invalidate an annexation that was effective on or before July 1, 2019.

2 **(l) Notwithstanding any other law, a remonstrance waiver is**
 3 **effective and binding on a landowner or a successor in title to a**
 4 **party to the contract only with regard to an annexation for which**
 5 **the annexation ordinance was adopted before April 1, 2022.**

6 SECTION 29. IC 36-9-25-14, AS AMENDED BY P.L.156-2020,
 7 SECTION 149, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) As to each municipality
 9 to which this chapter applies:

10 (1) all the territory included within the corporate boundaries of
 11 the municipality; and

12 (2) any territory, town, addition, platted subdivision, or unplatted
 13 land lying outside the corporate boundaries of the municipality
 14 that has been taken into the district in accordance with a prior
 15 statute, the sewage or drainage of which discharges into or
 16 through the sewage system of the municipality;

17 constitutes a special taxing district for the purpose of providing for the
 18 sanitary disposal of the sewage of the district in a manner that protects
 19 the public health and prevents the undue pollution of watercourses of
 20 the district.

21 (b) Upon request by:

22 (1) a resolution adopted by the legislative body of another
 23 municipality in the same county; or

24 (2) a petition of the majority of the resident freeholders in a
 25 platted subdivision or of the owners of unplatted land outside the
 26 boundaries of a municipality, if the platted subdivision or
 27 unplatted land is in the same county;

28 the board may adopt a resolution incorporating all or any part of the
 29 area of the municipality, platted subdivision, or unplatted land into the
 30 district.

31 (c) A request under subsection (b) must be signed and certified as
 32 correct by the secretary of the legislative body, resident freeholders, or
 33 landowners. The original shall be preserved in the records of the board.
 34 The resolution of the board incorporating an area in the district must be
 35 in writing and must contain an accurate description of the area
 36 incorporated into the district. A certified copy of the resolution, signed
 37 by the president and secretary of the board, together with a map
 38 showing the boundaries of the district and the location of additional
 39 areas, shall be delivered to the auditor of the county within which the
 40 district is located. It shall be properly indexed and kept in the
 41 permanent records of the offices of the auditor.

42 (d) In addition, upon request by ten (10) or more interested resident



1 freeholders in a platted or unplatted territory, the board may define the
2 limits of an area within the county and including the property of the
3 freeholders that is to be considered for inclusion into the district.
4 Notice of the defining of the area by the board, and notice of the
5 location and limits of the area, shall be given by publication in
6 accordance with IC 5-3-1. Upon request by a majority of the resident
7 freeholders of the area, the area may be incorporated into the district in
8 the manner provided in this section. The resolution of the board
9 incorporating the area into the district and a map of the area shall be
10 made and filed in the same manner.

11 (e) In addition, a person owning or occupying real property outside
12 the district may enter into a sewer service agreement with the board for
13 connection to the sewage works of the district. If the agreement
14 provides for connection at a later time, the date or the event upon
15 which the service commences shall be stated in the agreement. The
16 agreement may impose any conditions for connection that the board
17 determines. The agreement must also provide the amount of service
18 charge to be charged for connection if the persons are not covered
19 under section 11 of this chapter, with the amount to be fixed by the
20 board in its discretion and without a hearing.

21 (f) All sewer service agreements made under subsection (e) or (after
22 June 30, 2013) a signed memorandum of the sewer service agreement
23 shall be recorded in the office of the recorder of the county where the
24 property is located. The agreements run with the property described
25 and are binding upon the persons owning or occupying the property,
26 their personal representatives, heirs, devisees, grantees, successors, and
27 assigns. Each agreement that is recorded, or each agreement of which
28 a signed memorandum is recorded, and that provides for the property
29 being served to be placed on the tax rolls shall be certified by the board
30 to the auditor of the county where the property is located. The
31 certification must state the date the property is to be placed on the tax
32 rolls, and upon receipt of the certification together with a copy of the
33 agreement, the auditor shall immediately place the property certified
34 upon the rolls of property subject to the levy and collection of taxes for
35 the district. An agreement may provide for the collection of a service
36 charge for the period services are rendered before the levy and
37 collection of the tax.

38 (g) Except as provided in subsections (j) and (l), sewer service
39 agreements made under subsection (e) must contain a waiver provision
40 that persons (other than municipalities) who own or occupy property
41 agree for themselves, their executors, administrators, heirs, devisees,
42 grantees, successors, and assigns that they will:



1 (1) neither object to nor file a remonstrance against the proposed
 2 annexation of the property by a municipality within the
 3 boundaries of the district;

4 (2) not appeal from an order or a judgment annexing the property
 5 to a municipality; and

6 (3) not file a complaint or an action against annexation
 7 proceedings.

8 (h) This subsection does not affect any rights or liabilities accrued
 9 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 10 proceedings continue and shall be imposed and enforced under prior
 11 law as if this subsection had not been enacted. For contracts executed
 12 after June 30, 2013, a waiver of the right to remonstrate under
 13 subsection (g) that is not void under subsection (m), (n), or (o) is
 14 binding as to an executor, administrator, heir, devisee, grantee,
 15 successor, or assign of a party to a sewer service agreement under
 16 subsection (g) only if the executor, administrator, heir, devisee,
 17 grantee, successor, or assign:

18 (1) has actual notice of the waiver; or

19 (2) has constructive notice of the waiver because the sewer
 20 service agreement or a signed memorandum of the sewer service
 21 agreement stating the waiver has been recorded in the chain of
 22 title of the property.

23 (i) This section does not affect any sewer service agreements
 24 entered into before March 13, 1953. However, this section applies to
 25 a remonstrance waiver regardless of when the waiver was executed.

26 (j) Subsection (g) does not apply to a landowner if all of the
 27 following conditions apply:

28 (1) The landowner is required to connect to a sewer service
 29 because a person other than the landowner has polluted or
 30 contaminated the area.

31 (2) The costs of extension of service or connection to the sewer
 32 service are paid by a person other than the landowner or the
 33 municipality.

34 (k) This subsection applies to any deed recorded after June 30,
 35 2015. This subsection applies only to property that is subject to a
 36 remonstrance waiver. A municipality shall provide written notice to
 37 any successor in title to property within a reasonable time after the
 38 deed is recorded, that a waiver of the right of remonstrance has been
 39 granted with respect to the property.

40 (l) The board may waive the waiver provision described in
 41 subsection (g) in a sewer service agreement made under subsection (e)
 42 if the sewer service agreement involves a connection to the district's



- 1 sewage works under IC 36-9-22.5.
- 2 (m) A remonstrance waiver executed before July 1, 2003, is void.
- 3 This subsection does not invalidate an annexation that was effective on
- 4 or before July 1, 2019.
- 5 (n) A remonstrance waiver executed after June 30, 2003, and before
- 6 July 1, 2019, is subject to the following:
- 7 (1) The waiver is void unless the waiver was recorded:
- 8 (A) before January 1, 2020; and
- 9 (B) with the county recorder of the county where the property
- 10 subject to the waiver is located.
- 11 (2) A waiver that is not void under subdivision (1) **or subsection**
- 12 **(p)** expires not later than fifteen (15) years after the date the
- 13 waiver is executed.
- 14 This subsection does not invalidate an annexation that was effective on
- 15 or before July 1, 2019.
- 16 (o) A remonstrance waiver executed after June 30, 2019, ~~is subject~~
- 17 ~~to the following: (1) The waiver is void unless the waiver is **must be**~~
- 18 ~~recorded (A) not later than thirty (30) business days after the date the~~
- 19 ~~waiver was executed and (B) with the county recorder of the county~~
- 20 ~~where the property subject to the waiver is located. (2) A waiver that~~
- 21 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
- 22 ~~years after the date the waiver is executed.~~ This subsection does not
- 23 invalidate an annexation that was effective on or before July 1, 2019.
- 24 **(p) Notwithstanding any other law, a remonstrance waiver is**
- 25 **effective and binding on a landowner or a successor in title to a**
- 26 **party to the contract only with regard to an annexation for which**
- 27 **the annexation ordinance was adopted before April 1, 2022.**
- 28 SECTION 30. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 73, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 73 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 3

