



January 29, 2019

SENATE BILL No. 94

DIGEST OF SB 94 (Updated January 24, 2019 1:44 pm - DI 133)

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 April 30, 2019: (1) A municipality initiating an annexation must file a petition with the court signed by at least: (A) 51% of the owners of land that is not exempt from property taxes in the annexation territory; or (B) the owners of more than 75% in assessed valuation of land that is not exempt from property taxes in the annexation territory. (2) If the petition filed by the municipality has enough signatures, the court must hold a hearing to review the annexation. (3) Adds provisions regarding the validity of a signature on an annexation petition. (4) Eliminates the remonstrance procedure for annexations and reimbursement of remonstrator's attorney's fees and costs. (5) Voids remonstrance waivers. (6) Provides that a settlement agreement in lieu of annexation that is executed after April 30, 2019, is void. (7) Eliminates provisions regarding the contiguity of a public highway.

Effective: Upon passage.

Boots, Head

January 3, 2019, read first time and referred to Committee on Local Government.
January 28, 2019, reported favorably — Do Pass.

SB 94—LS 6228/DI 87



January 29, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 94

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.228-2015,
2 SECTION 2, 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) ~~Notwithstanding any other law, a waiver of the right of~~
17 ~~remonstrance executed after June 30, 2015, expires not later than~~

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1 ~~fifteen (15) years after the date the waiver was executed:~~

2 ~~(e) (d)~~ This subsection applies to any deed recorded after June 30,
3 2015. This subsection applies only to property that is subject to a
4 remonstrance waiver. A municipality shall, within a reasonable time
5 after the recording of a deed to property located within the
6 municipality, provide written notice to the property owner that a waiver
7 of the right of remonstrance exists with respect to the property.

8 **(e) Notwithstanding any other law, a waiver of the right of**
9 **remonstrance is valid and binding on a landowner or a successor**
10 **in title only with regard to an annexation for which the annexation**
11 **ordinance was adopted before May 1, 2019.**

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

22 (b) This subsection applies to an annexation for which an
23 annexation ordinance is adopted after June 30, 2015, **and before May**
24 **1, 2019.** A public highway or the rights-of-way of a public highway are
25 contiguous to:

26 (1) the municipality; or

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

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

32 (c) **This subsection applies to an annexation for which an**
33 **annexation ordinance is adopted after June 30, 2015, and before**
34 **May 1, 2019.** A public highway or the rights-of-way of a public
35 highway are not contiguous unless one (1) of the following
36 requirements is met:

37 (1) The municipality obtains the written consent of the owners of
38 all property:

39 (A) adjacent to the entire length of the part of the public
40 highway and rights-of-way of the public highway that is being
41 annexed; and

42 (B) not already within the corporate boundaries of the



1 municipality.

2 A waiver of the right of remonstrance executed by a property
3 owner or a successor in title of the property owner for sewer
4 services or water services does not constitute written consent for
5 purposes of this subdivision.

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

10 (3) All property adjacent to at least one (1) side of the entire
11 length of the part of the public highway or rights-of-way of the
12 public highway being annexed is part of the same annexation
13 ordinance in which the public highway or rights-of-way of a
14 public highway are being annexed.

15 A municipality may not annex a public highway or the rights-of-way of
16 a public highway or annex territory adjacent to the public highway or
17 rights-of-way of a public highway unless the requirements of this
18 section are met.

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

24 (b) Not earlier than six (6) months before a municipality introduces
25 an annexation ordinance, the municipality shall conduct an outreach
26 program to inform citizens regarding the proposed annexation. For an
27 annexation under section 3 or 4 of this chapter, the outreach program
28 must conduct at least six (6) public information meetings regarding the
29 proposed annexation. For an annexation under section 5 of this chapter,
30 the outreach program must conduct at least three (3) public information
31 meetings regarding the proposed annexation. The public information
32 meetings must provide citizens with the following information:

33 (1) Maps showing the proposed boundaries of the annexation
34 territory.

35 (2) Proposed plans for extension of capital and noncapital
36 services in the annexation territory, including proposed dates of
37 extension.

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

40 (c) The municipality shall provide notice of the dates, times, and
41 locations of the outreach program meetings. The municipality shall
42 publish the notice of the meetings under IC 5-3-1, including the date,



1 time, and location of the meetings, except that notice must be published
 2 not later than thirty (30) days before the date of each meeting. The
 3 municipality shall also send notice to each owner of land within the
 4 annexation territory not later than thirty (30) days before the date of the
 5 first meeting of the outreach program. The notice to landowners shall
 6 be sent by first class mail, certified mail with return receipt requested,
 7 or any other means of delivery that includes a return receipt and must
 8 include the following information:

9 (1) The notice must inform the landowner that the municipality is
 10 proposing to annex territory that includes the landowner's
 11 property.

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

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

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

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

22 (2) in accordance with this section;

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

24 **(e) This subsection applies only to an annexation for which an**
 25 **annexation ordinance is adopted after June 30, 2015, and before**
 26 **May 1, 2019.** If a remonstrance is filed under section 11 of this
 27 chapter, the municipality shall file with the court proof that notices
 28 were sent to landowners under this section and proof of publication.

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

31 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This
 33 section does not apply to an annexation under section 4(a)(2), 4(a)(3),
 34 4(b), 4(h), or 4.1 of this chapter.

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

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

42 (d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter,



1 the municipality shall establish and adopt the written fiscal plan before
2 adopting the annexation ordinance.

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

10 (1) signed by at least:

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

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

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

17 (b) This subsection applies only to a petition requesting annexation
18 that is filed after June 30, 2015. **A municipality may not collect**
19 **signatures on an annexation petition that is filed with the legislative**
20 **body under this section after April 30, 2019.** If the owners of land
21 located outside of but contiguous to a municipality want to have
22 territory containing that land annexed to the municipality, they may file
23 with the legislative body of the municipality a petition that meets the
24 following requirements:

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

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

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

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

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

35 (B) The owners of seventy-five percent (75%) of the total
36 assessed value of the land for property tax purposes. Land that
37 was exempt from property taxes under IC 6-1.1-10 or any
38 other state law for the immediately preceding year may not be
39 included in calculating the total assessed valuation of the land
40 in the annexation territory. The court may not count an owner's
41 signature on a petition with regard to any single property that
42 the owner has an interest in that was exempt from property



1 taxes under IC 6-1.1-10 or any other state law for the
2 immediately preceding year.

3 (2) The petition requests an ordinance annexing the area
4 described in the petition.

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

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

10 (d) If the legislative body fails to pass the ordinance within one
11 hundred fifty (150) days after the date of filing of a petition under
12 subsection (a) or (b), the petitioners may file a duplicate copy of the
13 petition in the circuit or superior court of a county in which the territory
14 is located, and shall include a written statement of why the annexation
15 should take place. Notice of the proceedings, in the form of a
16 summons, shall be served on the municipality named in the petition.
17 The municipality is the defendant in the cause and shall appear and
18 answer.

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

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

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

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

36 SECTION 6. IC 36-4-3-5.1, AS AMENDED BY P.L.228-2015,
37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 5.1. (a) Owners of land located outside but
39 contiguous to a municipality may file a petition with the legislative
40 body of the municipality:

- 41 (1) requesting an ordinance annexing the area described in the
42 petition; and



- 1 (2) signed by:
2 (A) one hundred percent (100%) of the landowners that reside
3 within the territory that is proposed to be annexed, in the case
4 of a petition filed before July 1, 2015; and
5 (B) in the case of a petition filed after June 30, 2015, one
6 hundred percent (100%) of the owners of land within the
7 territory that is proposed to be annexed.
- 8 (b) Sections 2.1 and 2.2 of this chapter do not apply to an
9 annexation under this section.
- 10 (c) The petition circulated by the landowners must include on each
11 page where signatures are affixed a heading that is substantially similar
12 to the following:
13 "PETITION FOR ANNEXATION INTO THE (insert whether city
14 or town) OF (insert name of city or town).".
- 15 (d) The municipality may:
16 (1) adopt an annexation ordinance annexing the territory; and
17 (2) adopt a fiscal plan and establish a definite policy by resolution
18 of the legislative body;
19 after the legislative body has held a public hearing on the proposed
20 annexation.
- 21 (e) The municipality may introduce and hold the public hearing on
22 the annexation ordinance not later than thirty (30) days after the
23 petition is filed with the legislative body. Notice of the public hearing
24 may be published one (1) time in accordance with IC 5-3-1 at least
25 twenty (20) days before the hearing. All interested parties must have
26 the opportunity to testify at the hearing as to the proposed annexation.
- 27 (f) The municipality may adopt the annexation ordinance not earlier
28 than fourteen (14) days after the public hearing under subsection (e).
- 29 (g) A landowner may withdraw the landowner's signature from the
30 petition not more than thirteen (13) days after the municipality adopts
31 the fiscal plan by providing written notice to the office of the clerk of
32 the municipality. If a landowner withdraws the landowner's signature,
33 the petition shall automatically be considered a voluntary petition that
34 is filed with the legislative body under section 5 of this chapter,
35 fourteen (14) days after the date the fiscal plan is adopted. All
36 provisions applicable to a petition initiated under section 5 of this
37 chapter apply to the petition.
- 38 (h) If the municipality does not adopt an annexation ordinance
39 within sixty (60) days after the landowners file the petition with the
40 legislative body, the landowners may file a duplicate petition with the
41 circuit or superior court of a county in which the territory is located.
42 The court shall determine whether the annexation shall take place as



1 set forth in section 5 of this chapter.

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

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

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

12 **(b) This section applies only to an annexation for which an**
 13 **annexation ordinance is adopted after April 30, 2019.**

14 **(c) After a municipality meets the requirements under sections**
 15 **2.1 and 2.2 of this chapter, and adopts an annexation ordinance**
 16 **under section 3 or 4 of this chapter, in order for the annexation to**
 17 **proceed, the municipality must file a written petition under**
 18 **subsection (f), signed by owners of land in the territory proposed**
 19 **to be annexed who are in favor of the annexation. The petition**
 20 **must be signed by:**

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

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

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

25 **(2) the owners of more than seventy-five percent (75%) in**
 26 **assessed valuation of land:**

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

29 **(B) in the territory proposed to be annexed.**

30 **(d) The petition circulated by the municipality must include on**
 31 **each page where signatures are affixed a heading that is**
 32 **substantially similar to the following:**

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

35 **(e) A landowner may withdraw the landowner's signature from**
 36 **the petition not more than ten (10) days after the municipality**
 37 **adopts the annexation ordinance by providing written notice to the**
 38 **office of the clerk of the municipality. A landowner who withdraws**
 39 **the landowner's signature from the petition is considered not to**
 40 **have signed the petition for purposes of subsection (h)(2).**

41 **(f) The municipality must file the petition with the circuit or**
 42 **superior court of the county where the municipality is located not**



1 later than ninety (90) days after the publication of the annexation
 2 ordinance under section 7 of this chapter. The petition must be
 3 accompanied by:

- 4 (1) a copy of the ordinance; and
 5 (2) the names and addresses of all persons who meet the
 6 requirements of subsection (h).

7 (g) On receipt of the petition, the court shall determine whether
 8 the petition has the necessary signatures. In determining the total
 9 number of landowners of the territory proposed to be annexed and
 10 whether signers of the petition are landowners, the names
 11 appearing on the tax duplicate for that territory constitute prima
 12 facie evidence of ownership. Only one (1) person having an interest
 13 in each single property, as evidenced by the tax duplicate, is
 14 considered a landowner for purposes of this section. A person is
 15 entitled to sign a petition only one (1) time, regardless of whether
 16 the person owns more than one (1) parcel of real property. If the
 17 court determines that the municipality's petition has a sufficient
 18 number of signatures, the court shall fix a time, not later than sixty
 19 (60) days after its determination, for a hearing on the petition.

20 (h) A person may intervene as a party at the hearing described
 21 in subsection (g) if the following requirements are satisfied:

- 22 (1) The person owns, solely or with another person, property
 23 that is in the territory proposed to be annexed.
 24 (2) None of the owners of the property signed the petition filed
 25 by the municipality.
 26 (3) The person appeared in person or submitted a
 27 remonstrance or other document objecting to the annexation
 28 into the record of the municipality's hearing on the
 29 annexation ordinance under section 2.1 of this chapter.

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

32 SECTION 8. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 5.6. (a) This section applies only to an
 35 annexation for which an annexation ordinance is adopted after
 36 April 30, 2019.

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

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



1 (1) the validity of a signature is uncertain; and

2 (2) this section does not establish a standard to be applied in
3 the case;

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

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

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

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

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

25 SECTION 9. IC 36-4-3-7, AS AMENDED BY P.L.86-2018,
26 SECTION 342, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) After an **annexation**
28 ordinance is adopted, ~~under section 3, 4, 5, or 5.1 of this chapter,~~ **it the**
29 **ordinance** must be published in the manner prescribed by IC 5-3-1.

30 (b) **This subsection applies only to an annexation for which an**
31 **annexation ordinance is adopted before May 1, 2019.** Except as
32 provided in subsection ~~(b); (d); or (f);~~ **(c), (d), or (e)**, in the absence of
33 remonstrance and appeal under section 11 or 15.5 of this chapter, the
34 ordinance takes effect at least ninety (90) days after its publication and
35 upon the filing required by section 22(a) of this chapter.

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

37 (1) **This subdivision applies to an annexation under section 5**
38 **of this chapter. Except as provided in subsection (d) or (f), in**
39 **the absence of an appeal under section 15.5 of this chapter,**
40 **the annexation ordinance takes effect at least ninety (90) days**
41 **after its publication and upon filing under section 22(a) of this**
42 **chapter.**



1 (2) This subdivision applies to an annexation under section 5.1
2 of this chapter. Except as provided in subsection (d) or (f), in
3 the absence of an appeal under section 15.5 of this chapter,
4 the ordinance takes effect at least thirty (30) days after the
5 adoption of the ordinance and upon the filing under section
6 22(a) of this chapter.

7 (3) This subdivision applies to an annexation under section 5.5
8 of this chapter. Except as provided in subsection (d) or (f), if
9 the court's judgment under section 12 of this chapter,
10 including any appeals under section 15.5 of this chapter, is in
11 favor of the annexation, the annexation is effective upon the
12 filing under section 22(a) of this chapter.

13 (4) This subdivision applies to an annexation under section 7.1
14 of this chapter for which an annexation ordinance is adopted
15 after May 1, 2019. Notwithstanding subsection (d), if the
16 court's judgment under section 12 of this chapter, including
17 any appeals under section 15.5 of this chapter, is in favor of
18 the annexation, the annexation is effective upon the filing
19 under section 22(a) of this chapter.

20 (b) (d) An ordinance described in subsection (d) or adopted under
21 section 3, 4, 5, or 5.1 of this chapter **annexation** may not take effect
22 during the year preceding a year in which a federal decennial census is
23 conducted. An ordinance that would otherwise take effect during the
24 year preceding a year in which a federal decennial census is conducted
25 takes effect January 1 of the year in which a federal decennial census
26 is conducted.

27 (e) Subsections (d) and (e) apply to fire protection districts that are
28 established after June 14, 1987.

29 (d) (e) **This subsection applies only to a fire protection district**
30 **established after June 14, 1987.** Except as provided in subsection (b);
31 (d), whenever a municipality annexes territory, all or part of which lies
32 within a fire protection district (IC 36-8-11), the annexation ordinance,
33 in the absence of remonstrance and appeal under section 11 or 15.5 of
34 this chapter **(in the case of an annexation for which an annexation**
35 **ordinance is adopted before May 1, 2019) or in the absence of a**
36 **hearing or an appeal under section 12 or 15.5 of this chapter (in the**
37 **case of an annexation for which an annexation ordinance is**
38 **adopted after April 30, 2019),** takes effect the second January 1 that
39 follows the date the ordinance is adopted and upon the filing required
40 by section 22(a) of this chapter. The municipality shall:

41 (1) provide fire protection to that territory beginning **on** the date
42 the ordinance is effective; and



1 (2) send written notice to the fire protection district of the date the
 2 municipality will begin to provide fire protection to the annexed
 3 territory within ten (10) days of the date the ordinance is adopted.
 4 ~~(e)~~ **(f) This subsection applies only to a fire protection district**
 5 **established after June 14, 1987.** If the fire protection district from
 6 which a municipality annexes territory under subsection ~~(d)~~ **(e)** is
 7 indebted or has outstanding unpaid bonds or other obligations at the
 8 time the annexation is effective, the municipality is liable for and shall
 9 pay that indebtedness in the same ratio as the assessed valuation of the
 10 property in the annexed territory (that is part of the fire protection
 11 district) bears to the assessed valuation of all property in the fire
 12 protection district, as shown by the most recent assessment for taxation
 13 before the annexation, unless the assessed property within the
 14 municipality is already liable for the indebtedness. The annexing
 15 municipality shall pay its indebtedness under this section to the board
 16 of fire trustees. If the indebtedness consists of outstanding unpaid
 17 bonds or notes of the fire protection district, the payments to the board
 18 of fire trustees shall be made as the principal or interest on the bonds
 19 or notes becomes due.
 20 ~~(f) This subsection applies to an annexation initiated by property~~
 21 ~~owners under section 5.1 of this chapter in which all property owners~~
 22 ~~within the area to be annexed petition the municipality to be annexed.~~
 23 Subject to subsections (b) and (d); and in the absence of an appeal
 24 under section 15.5 of this chapter, an annexation ordinance takes effect
 25 at least thirty (30) days after its publication and upon the filing required
 26 by section 22(a) of this chapter.
 27 SECTION 10. IC 36-4-3-7.1, AS AMENDED BY P.L.228-2015,
 28 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: Sec. 7.1. ~~(a) Notwithstanding section 7(b) of this~~
 30 ~~chapter,~~ An ordinance adopted under section 4 of this chapter **that**
 31 **meets the conditions set forth in subsection (b)** takes effect as
 32 **follows:**
 33 **(1) Notwithstanding section 7(b) of this chapter, in the case of**
 34 **an annexation for which an annexation ordinance was**
 35 **adopted before May 1, 2019, the ordinance takes effect**
 36 **immediately:**
 37 **(A)** upon the expiration of the remonstrance and appeal period
 38 under section 11, 11.1, or 15.5 of this chapter; and
 39 **(B)** after the publication, filing, and recording required by
 40 section 22(a) of this chapter. ~~if all of the following conditions~~
 41 ~~are met.~~
 42 **(2) In the case of an annexation for which an annexation**



1 **ordinance was adopted after April 30, 2019, the ordinance**
 2 **takes effect as set forth in section 7(c)(4) of this chapter.**

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

- 5 (1) The annexed territory has no population.
 6 (2) Ninety percent (90%) of the total assessed value of the land
 7 for property tax purposes has one (1) owner.
 8 (3) The annexation is required to fulfill an economic development
 9 incentive package and to retain an industry through various local
 10 incentives, including urban enterprise zone benefits.

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

- 21 (1) at least sixty-five percent (65%) of the owners of land in the
 22 annexed territory; or
 23 (2) the owners of more than seventy-five percent (75%) in
 24 assessed valuation of the land in the annexed territory.

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

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

39 (c) This subsection applies only to an annexation for which an
 40 annexation ordinance was adopted before July 1, 2015. If the court
 41 determines that the remonstrance is sufficient, the court shall fix a time,
 42 within sixty (60) days after the court's determination, for a hearing on



1 the remonstrance. Notice of the proceedings, in the form of a summons,
2 shall be served on the annexing municipality. The municipality is the
3 defendant in the cause and shall appear and answer.

4 (d) This subsection applies only to an annexation for which an
5 annexation ordinance was adopted after June 30, 2015, **and before**
6 **May 1, 2019**. If the requirements of section 11.3(c) or (after December
7 31, 2016) section 11.4 of this chapter are met, the annexation may be
8 appealed by filing with the circuit or superior court of a county in
9 which the annexed territory is located:

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

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

22 (e) If an annexation is initiated by property owners under section 5.1
23 of this chapter and all property owners within the area to be annexed
24 petition the municipality to be annexed, a remonstrance to the
25 annexation may not be filed under this section.

26 (f) This subsection applies only to an annexation for which an
27 annexation ordinance is adopted before July 1, 2015. This subsection
28 applies if:

- 29 (1) the territory to be annexed consists of not more than one
30 hundred (100) parcels; and
- 31 (2) eighty percent (80%) of the boundary of the territory proposed
32 to be annexed is contiguous to the municipality.

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

38 SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
39 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 UPON PASSAGE]: Sec. 11.1. (a) This section applies only to an
41 annexation ordinance adopted after June 30, 2015, **and before May 1,**
42 **2019.**



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

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

7 (1) publication in accordance with IC 5-3-1; and

8 (2) first class mail or certified mail with return receipt requested,
 9 or any other means of delivery that includes a return receipt;

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

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

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

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

24 (B) the last date in accordance with clause (A) that
 25 remonstrance petitions must be filed with the county auditor
 26 to be valid.

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

30 (A) The address of the location.

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

33 (e) Beginning the day after publication of the notice under
 34 subsection (c) and ending not later than ninety (90) days after
 35 publication of the notice under subsection (c), the municipality shall
 36 provide both of the following:

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

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

42 The location must meet the following requirements:



- 1 (A) The location must be in a public building:
- 2 (i) owned or leased by the state or a political subdivision,
- 3 including a public library, community center, or parks and
- 4 recreation building; and
- 5 (ii) located within the boundaries of the municipality or the
- 6 annexation territory.
- 7 (B) The location must be open according to the following:
- 8 (i) On a day that the location is open on a weekday, the
- 9 location must be open at a minimum from 5 p.m. to 9 p.m.
- 10 (ii) On a day that the location is open on a Saturday or
- 11 Sunday, the location must be open at least four (4) hours
- 12 during the period from 9 a.m. to 5 p.m.
- 13 (f) An additional location may not be open on a day that is a legal
- 14 holiday. At any location and during the hours that a remonstrance
- 15 petition may be signed, the municipality shall have a person present:
- 16 (1) to witness the signing of remonstrance petitions; and
- 17 (2) who shall swear and affirm before a notary public that the
- 18 person witnessed each person sign the remonstrance petition.
- 19 SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016,
- 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an
- 22 annexation ordinance adopted after June 30, 2015, **and before May 1,**
- 23 **2019.**
- 24 (b) A remonstrance petition may be filed by an owner of real
- 25 property that:
- 26 (1) is within the area to be annexed;
- 27 (2) was not exempt from property taxes under IC 6-1.1-10 or any
- 28 other state law for the immediately preceding year; and
- 29 (3) is not subject to a valid waiver of remonstrance.
- 30 (c) A remonstrance petition must comply with the following in order
- 31 to be effective:
- 32 (1) Each signature on a remonstrance petition must be dated, and
- 33 the date of the signature may not be earlier than the date on which
- 34 the remonstrance forms may be issued by the county auditor
- 35 under subsection (e)(7).
- 36 (2) Each person who signs a remonstrance petition must indicate
- 37 the address of the real property owned by the person in the area
- 38 to be annexed.
- 39 (3) A remonstrance petition must be verified in compliance with
- 40 subsection (e).
- 41 (d) The state board of accounts shall design the remonstrance forms
- 42 to be used solely in the remonstrance process described in this section.



1 The state board of accounts shall provide the forms to the county
2 auditor in an electronic format that permits the county auditor to copy
3 or reproduce the forms using:

- 4 (1) the county auditor's own equipment; or
- 5 (2) a commercial copying service.

6 The annexing municipality shall reimburse the county auditor for the
7 cost of reproducing the remonstrance forms.

8 (e) The county auditor's office shall issue remonstrance forms
9 accompanied by instructions detailing all of the following
10 requirements:

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



1 distribute to other persons.

2 (8) A person who signs a remonstrance petition may withdraw the
3 person's signature from a remonstrance petition before a
4 remonstrance petition is filed with the county auditor by filing a
5 verified request to remove the person's name from the
6 remonstrance petition. Names may not be added to a
7 remonstrance petition after the remonstrance petition is filed with
8 the county auditor.

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

17 (g) Not later than five (5) business days after receiving the
18 remonstrance petition, the county auditor shall submit a copy of the
19 remonstrance petition to the legislative body of the annexing
20 municipality.

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

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

32 (1) who signed the remonstrance; and

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

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

40 SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015,
41 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 11.3. (a) This section applies only to an



1 annexation ordinance adopted after June 30, 2015, **and before May 1,**
2 **2019.**
3 (b) An annexation ordinance is void if a written remonstrance
4 petition is signed by one (1) of the following:
5 (1) At least sixty-five percent (65%) of the owners of land in the
6 annexed territory. An owner of land may not:
7 (A) be counted in calculating the total number of owners of
8 land in the annexation territory; or
9 (B) have the owner's signature counted on a remonstrance;
10 with regard to any single property that an owner has an interest in
11 that was exempt from property taxes under IC 6-1.1-10 or any
12 other state law for the immediately preceding year.
13 (2) The owners of at least eighty percent (80%) in assessed
14 valuation of the land in the annexed territory. Land that was
15 exempt from property taxes under IC 6-1.1-10 or any other state
16 law for the immediately preceding year may not be included in
17 calculating the total assessed valuation of the land in the
18 annexation territory. The court may not count the owner's
19 signature on a remonstrance with regard to any single property
20 that 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 immediately
22 preceding year.
23 (c) The annexation may be appealed to the court under section 11
24 of this chapter, if a written remonstrance is signed by one (1) of the
25 following:
26 (1) At least fifty-one percent (51%) but less than sixty-five
27 percent (65%) of the owners of land. An owner of land may not:
28 (A) be counted in calculating the total number of owners of
29 land in the annexation territory; or
30 (B) have the owner's signature counted on a remonstrance;
31 with regard to any single property that the owner has an interest
32 in that was exempt from property taxes under IC 6-1.1-10 or any
33 other state law for the immediately preceding year.
34 (2) The owners of at least sixty percent (60%) but less than eighty
35 percent (80%) in assessed valuation of land in the annexed
36 territory. Land that was exempt from property taxes under
37 IC 6-1.1-10 or any other state law for the immediately preceding
38 year may not be included in calculating the total assessed
39 valuation of the land in the annexation territory. The court may
40 not count an owner's signature on a remonstrance with regard to
41 any single property that the owner has an interest in that was
42 exempt from property taxes under IC 6-1.1-10 or any other state



- 1 law for the immediately preceding year.
- 2 SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015,
3 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 11.4. (a) This section applies only to an
5 annexation that ~~the~~ meets all of the following requirements:
- 6 (1) The annexation ordinance is adopted after December 31,
7 2016, **and before May 1, 2019.**
- 8 (2) Notwithstanding the contiguity requirements of section 1.5 of
9 this chapter, at least one-tenth (1/10) of the aggregate external
10 boundaries of the territory sought to be annexed coincides with
11 the boundaries of:
- 12 (A) the municipality; and
13 (B) the site of an economic development project.
- 14 (b) As used in this section, "economic development project" means
15 any project developed by the municipality that meets all of the
16 following requirements:
- 17 (1) The annexing municipality determines that the project will:
- 18 (A) promote significant opportunities for the gainful
19 employment of its citizens;
20 (B) attract a major new business enterprise to the municipality;
21 or
22 (C) retain or expand a significant business enterprise within
23 the municipality.
- 24 (2) The project involves expenditures by the annexing
25 municipality for any of the following:
- 26 (A) Land acquisition, interests in land, site improvements,
27 infrastructure improvements, buildings, or structures.
28 (B) Rehabilitation, renovation, and enlargement of buildings
29 and structures.
30 (C) Machinery, equipment, furnishings, or facilities.
31 (D) Substance removal or remedial action.
- 32 (c) Notwithstanding section 11.3(b) of this chapter, even if a
33 remonstrance has enough signatures to satisfy the requirements of
34 section 11.3(b) of this chapter, the annexation ordinance is not void and
35 may be appealed to the court under section 11 of this chapter, if all of
36 the following requirements are met:
- 37 (1) The economic development project site needs the following
38 capital services that the municipality is lawfully able to provide:
- 39 (A) water;
40 (B) sewer;
41 (C) gas; or
42 (D) any combination of the capital services described in



1 clauses (A) through (C).
2 (2) The municipality finds that it is in the municipality's best
3 interest to annex the annexation territory in order to extend,
4 construct, or operate the capital services that are provided to the
5 economic development project site.
6 (3) Before the date the annexation ordinance is adopted, a
7 taxpayer whose business will occupy the economic development
8 project site has done at least one (1) of the following:
9 (A) Filed a statement of benefits under IC 6-1.1-12.1 with the
10 designating body for the annexing municipality for a deduction
11 or abatement.
12 (B) Entered into an agreement with the Indiana economic
13 development corporation for a credit under IC 6-3.1-13.
14 (d) If the economic development project:
15 (1) has not commenced within twelve (12) months after the date
16 the annexation ordinance is adopted; or
17 (2) is not completed within thirty-six (36) months after the date
18 the annexation ordinance is adopted;
19 the annexation territory is disannexed from the municipality and reverts
20 to the jurisdiction of the unit having jurisdiction before the annexation.
21 For purposes of this subsection, ~~a~~ **an** economic development project is
22 considered to have commenced on the day that the physical erection,
23 installation, alteration, repair, or remodeling of a building or structure
24 commences on the site of the economic development project.
25 SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a)** A
27 landowner in an unincorporated area is not required to grant a
28 municipality a waiver against remonstrance as a condition of
29 connection to a sewer or water service if all of the following conditions
30 apply:
31 (1) The landowner is required to connect to the sewer or water
32 service because a person other than the landowner has polluted or
33 contaminated the area.
34 (2) A person other than the landowner or the municipality has
35 paid the cost of connection to the service.
36 **(b) Notwithstanding any other law, a waiver of the right to**
37 **remonstrate is effective and binding on a landowner or a successor**
38 **in title only with regard to an annexation for which the annexation**
39 **ordinance was adopted before May 1, 2019.**
40 SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015,
41 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 11.6. (a) This section applies to a



1 remonstrance filed after June 30, 2015, **and before May 1, 2019.**

2 (b) If the court orders an annexation not to take place after a hearing
3 under section 11 of this chapter, the remonstrators shall be reimbursed
4 by the annexing municipality for any reasonable attorney's fees,
5 including litigation expenses and appeal costs:

6 (1) that are incurred:

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

8 (B) in remonstrating against the annexation; and

9 (2) not to exceed thirty-seven thousand five hundred dollars
10 (\$37,500).

11 SECTION 18. IC 36-4-3-11.7, AS ADDED BY P.L.228-2015,
12 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 UPON PASSAGE]: Sec. 11.7. ~~(a) Notwithstanding any other law, a~~
14 ~~waiver of the right of remonstrance executed after June 30, 2015;~~
15 ~~expires not later than fifteen (15) years after the date the waiver was~~
16 ~~executed.~~

17 ~~(b) (a)~~ This subsection applies to any deed recorded after June 30,
18 2015. This subsection applies only to property that is subject to a
19 remonstrance waiver. A municipality shall, within a reasonable time
20 after the recording of a deed to property located within the
21 municipality, provide written notice to the property owner that a waiver
22 of the right of remonstrance exists with respect to the property.

23 **(b) Notwithstanding any other law, a waiver of the right of**
24 **remonstrance is effective and binding on a landowner or a**
25 **successor in title only with regard to an annexation for which the**
26 **annexation ordinance was adopted before May 1, 2019.**

27 SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
28 SECTION 117, IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit or superior
30 court shall:

31 (1) on the date fixed under:

32 **(A) section 11 of this chapter (in the case of an annexation**
33 **for which an annexation ordinance is adopted before May**
34 **1, 2019), hear and determine the remonstrance without a jury;**
35 **or**

36 **(B) section 5.5 of this chapter (in the case of an annexation**
37 **for which an annexation ordinance is adopted after April**
38 **30, 2019), hear and determine the petition without a jury;**

39 and

40 (2) without delay, enter judgment on the question of the
41 annexation according to the evidence that either party may
42 introduce.



1 **(b) This subsection does not apply to an annexation under**
 2 **section 7.1 of this chapter.** If the court enters judgment in favor of the
 3 annexation, the annexation may not take effect during the year
 4 preceding the year in which a federal decennial census is conducted.
 5 An annexation that would otherwise take effect during the year
 6 preceding a year in which a federal decennial census is conducted takes
 7 effect January 1 of the year in which a federal decennial census is
 8 conducted.

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

- 15 (1) The requirements of either subsection (b) or (c).
 16 (2) The requirements of subsection (d).
 17 (3) The requirements of subsection (i) **(in the case of an**
 18 **annexation for which an annexation ordinance is adopted**
 19 **before May 1, 2019).**

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

- 22 (1) That the territory sought to be annexed is contiguous to the
 23 municipality.
 24 (2) One (1) of the following:
 25 (A) The resident population density of the territory sought to
 26 be annexed is at least three (3) persons per acre.
 27 (B) Sixty percent (60%) of the territory is subdivided.
 28 (C) The territory is zoned for commercial, business, or
 29 industrial uses.

30 (c) The requirements of this subsection are met if the evidence
 31 establishes one (1) of the following:

- 32 (1) That the territory sought to be annexed is:
 33 (A) contiguous to the municipality as required by section 1.5
 34 of this chapter, except that at least one-fourth (1/4), instead of
 35 one-eighth (1/8), of the aggregate external boundaries of the
 36 territory sought to be annexed must coincide with the
 37 boundaries of the municipality; and
 38 (B) needed and can be used by the municipality for its
 39 development in the reasonably near future.
 40 (2) This subdivision applies only to an annexation for which an
 41 annexation ordinance is adopted after December 31, 2016, **and**
 42 **before May 1, 2019.** That the territory sought to be annexed



- 1 involves an economic development project and the requirements
 2 of section 11.4 of this chapter are met.
- 3 (d) The requirements of this subsection are met if the evidence
 4 establishes that the municipality has developed and adopted a written
 5 fiscal plan and has established a definite policy, by resolution of the
 6 legislative body as set forth in section 3.1 of this chapter. The fiscal
 7 plan must show the following:
- 8 (1) The cost estimates of planned services to be furnished to the
 9 territory to be annexed. The plan must present itemized estimated
 10 costs for each municipal department or agency.
- 11 (2) The method or methods of financing the planned services. The
 12 plan must explain how specific and detailed expenses will be
 13 funded and must indicate the taxes, grants, and other funding to
 14 be used.
- 15 (3) The plan for the organization and extension of services. The
 16 plan must detail the specific services that will be provided and the
 17 dates the services will begin.
- 18 (4) That planned services of a noncapital nature, including police
 19 protection, fire protection, street and road maintenance, and other
 20 noncapital services normally provided within the corporate
 21 boundaries, will be provided to the annexed territory within one
 22 (1) year after the effective date of annexation and that they will be
 23 provided in a manner equivalent in standard and scope to those
 24 noncapital services provided to areas within the corporate
 25 boundaries regardless of similar topography, patterns of land use,
 26 and population density.
- 27 (5) That services of a capital improvement nature, including street
 28 construction, street lighting, sewer facilities, water facilities, and
 29 stormwater drainage facilities, will be provided to the annexed
 30 territory within three (3) years after the effective date of the
 31 annexation in the same manner as those services are provided to
 32 areas within the corporate boundaries, regardless of similar
 33 topography, patterns of land use, and population density, and in
 34 a manner consistent with federal, state, and local laws,
 35 procedures, and planning criteria.
- 36 (6) This subdivision applies to a fiscal plan prepared after June
 37 30, 2015. The estimated effect of the proposed annexation on
 38 taxpayers in each of the political subdivisions to which the
 39 proposed annexation applies, including the expected tax rates, tax
 40 levies, expenditure levels, service levels, and annual debt service
 41 payments in those political subdivisions for four (4) years after
 42 the effective date of the annexation.



- 1 (7) This subdivision applies to a fiscal plan prepared after June
 2 30, 2015. The estimated effect the proposed annexation will have
 3 on municipal finances, specifically how municipal tax revenues
 4 will be affected by the annexation for four (4) years after the
 5 effective date of the annexation.
- 6 (8) This subdivision applies to a fiscal plan prepared after June
 7 30, 2015. Any estimated effects on political subdivisions in the
 8 county that are not part of the annexation and on taxpayers
 9 located in those political subdivisions for four (4) years after the
 10 effective date of the annexation.
- 11 (9) This subdivision applies to a fiscal plan prepared after June
 12 30, 2015. A list of all parcels of property in the annexation
 13 territory and the following information regarding each parcel:
- 14 (A) The name of the owner of the parcel.
 15 (B) The parcel identification number.
 16 (C) The most recent assessed value of the parcel.
 17 (D) The existence of a known waiver of the right to
 18 remonstrate on the parcel. This clause applies only to a fiscal
 19 plan prepared after June 30, 2016, **and before May 1, 2019.**
- 20 (e) At the hearing under section 12 of this chapter **with regard to**
 21 **an annexation for which an annexation ordinance was adopted**
 22 **before May 1, 2019**, the court shall do the following:
- 23 (1) Consider evidence on the conditions listed in subdivision (2).
 24 (2) Order a proposed annexation not to take place if the court
 25 finds that all of the following conditions that are applicable to the
 26 annexation exist in the territory proposed to be annexed:
- 27 (A) This clause applies only to an annexation for which an
 28 annexation ordinance was adopted before July 1, 2015. The
 29 following services are adequately furnished by a provider
 30 other than the municipality seeking the annexation:
 31 (i) Police and fire protection.
 32 (ii) Street and road maintenance.
- 33 (B) The annexation will have a significant financial impact on
 34 the residents or owners of land. The court may not consider:
 35 (i) the personal finances; or
 36 (ii) the business finances;
 37 of a resident or owner of land. The personal and business
 38 financial records of the residents or owners of land, including
 39 state, federal, and local income tax returns, may not be subject
 40 to a subpoena or discovery proceedings.
- 41 (C) The annexation is not in the best interests of the owners of
 42 land in the territory proposed to be annexed as set forth in



- 1 subsection (f).
 2 (D) This clause applies only to an annexation for which an
 3 annexation ordinance is adopted before July 1, 2015. One (1)
 4 of the following opposes the annexation:
 5 (i) At least sixty-five percent (65%) of the owners of land in
 6 the territory proposed to be annexed.
 7 (ii) The owners of more than seventy-five percent (75%) in
 8 assessed valuation of the land in the territory proposed to be
 9 annexed.
 10 Evidence of opposition may be expressed by any owner of land
 11 in the territory proposed to be annexed.
 12 (E) This clause applies only to an annexation for which an
 13 annexation ordinance is adopted after June 30, 2015, **and**
 14 **before May 1, 2019**. One (1) of the following opposes the
 15 annexation:
 16 (i) At least fifty-one percent (51%) of the owners of land in
 17 the territory proposed to be annexed.
 18 (ii) The owners of more than sixty percent (60%) in assessed
 19 valuation of the land in the territory proposed to be annexed.
 20 The remonstrance petitions filed with the court under section
 21 11 of this chapter are evidence of the number of owners of
 22 land that oppose the annexation, minus any written revocations
 23 of remonstrances that are filed with the court under section 11
 24 of this chapter.
 25 (F) This clause applies only to an annexation for which an
 26 annexation ordinance is adopted before July 1, 2015. This
 27 clause applies only to an annexation in which eighty percent
 28 (80%) of the boundary of the territory proposed to be annexed
 29 is contiguous to the municipality and the territory consists of
 30 not more than one hundred (100) parcels. At least seventy-five
 31 percent (75%) of the owners of land in the territory proposed
 32 to be annexed oppose the annexation as determined under
 33 section 11(b) of this chapter.
 34 (f) **This subsection applies only to an annexation for which an**
 35 **annexation ordinance is adopted before May 1, 2019**. The
 36 municipality under subsection (e)(2)(C) bears the burden of proving
 37 that the annexation is in the best interests of the owners of land in the
 38 territory proposed to be annexed. In determining this issue, the court
 39 may consider whether the municipality has extended sewer or water
 40 services to the entire territory to be annexed:
 41 (1) within the three (3) years preceding the date of the
 42 introduction of the annexation ordinance; or



- 1 (2) under a contract in lieu of annexation entered into under
 2 IC 36-4-3-21.
- 3 The court may not consider the provision of water services as a result
 4 of an order by the Indiana utility regulatory commission to constitute
 5 the provision of water services to the territory to be annexed.
- 6 (g) The most recent:
- 7 (1) federal decennial census;
 8 (2) federal special census;
 9 (3) special tabulation; or
 10 (4) corrected population count;
- 11 shall be used as evidence of resident population density for purposes
 12 of subsection (b)(2)(A), but this evidence may be rebutted by other
 13 evidence of population density.
- 14 (h) A municipality that prepares a fiscal plan after June 30, 2015,
 15 must comply with this subsection. A municipality may not amend the
 16 fiscal plan after the date that:
- 17 (1) a remonstrance is filed with the court under section 11 of this
 18 chapter **(in the case of an annexation for which an annexation
 19 ordinance was adopted before May 1, 2019); or**
- 20 (2) a petition is filed with the court under section 5.5 of this
 21 chapter **(in the case of an annexation for which an annexation
 22 ordinance was adopted after April 30, 2019);**
- 23 unless amendment of the fiscal plan is consented to by at least
 24 ~~sixty-five percent (65%)~~ of the persons who signed the remonstrance
 25 **or the petition.**
- 26 (i) The municipality must submit proof that the municipality has
 27 complied with:
- 28 ~~(A)~~ (1) the outreach program requirements and notice
 29 requirements of section 1.7 of this chapter; and
- 30 ~~(B)~~ (2) the requirements of section 11.1 of this chapter **(in the
 31 case of an annexation for which an annexation ordinance was
 32 adopted after June 30, 2015, and before May 1, 2019).**
- 33 SECTION 21. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
 34 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 15. (a) The court's judgment under section 12
 36 or 15.5 of this chapter must specify the annexation ordinance. ~~on which~~
 37 ~~the remonstrance is based.~~ The clerk of the court shall deliver a
 38 certified copy of the final and unappealable judgment to the clerk of the
 39 municipality. The clerk of the municipality shall:
- 40 (1) record the judgment in the clerk's ordinance record; and
 41 (2) make a cross-reference to the record of the judgment on the
 42 margin of the record of the annexation ordinance.



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

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

9 (c) This subsection applies if a municipality repeals the annexation
 10 ordinance:

11 (1) less than sixty-one (61) days after the publication of the
 12 ordinance under section 7(a) of this chapter; and

13 (2) before the hearing commences:

14 (A) on the remonstrance under section 11(c) of this chapter **(in**
 15 **the case of an annexation for which an annexation**
 16 **ordinance is adopted before May 1, 2019); or**

17 **(B) on the petition under section 12 of this chapter (in the**
 18 **case of an annexation for which an annexation ordinance**
 19 **is adopted after April 30, 2019).**

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

25 (d) This subsection applies if a municipality repeals the annexation
 26 ordinance:

27 (1) at least sixty-one (61) days but not more than one hundred
 28 twenty (120) days after the publication of the ordinance under
 29 section 7(a) of this chapter; and

30 (2) before the hearing commences:

31 (A) on the remonstrance under section 11(c) of this chapter **(in**
 32 **the case of an annexation for which an annexation**
 33 **ordinance is adopted before May 1, 2019); or**

34 **(B) on the petition under section 12 of this chapter (in the**
 35 **case of an annexation for which an annexation ordinance**
 36 **is adopted after April 30, 2019).**

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

42 (e) This subsection applies if a municipality repeals the annexation



1 ordinance:

2 (1) either:

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

6 (i) on the remonstrance under section 11(c) of this chapter
7 **(in the case of an annexation for which an annexation
8 ordinance is adopted before May 1, 2019); or**

9 **(ii) on the petition under section 12 of this chapter (in the
10 case of an annexation for which an annexation ordinance
11 is adopted after April 30, 2019).**

12 (B) after the hearing commences:

13 (i) on the remonstrance as set forth in section 11(c) of this
14 chapter **(in the case of an annexation for which an
15 annexation ordinance is adopted before May 1, 2019); or**

16 **(ii) on the petition under section 12 of this chapter (in the
17 case of an annexation for which an annexation ordinance
18 is adopted after April 30, 2019); and**

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

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

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

28 SECTION 22. IC 36-4-3-15.3 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.3. (a) As used
30 in this section, "prohibition against annexation" means that a
31 municipality may not make further attempts to annex certain territory
32 or any part of that territory.

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

36 (c) Under a settlement agreement between the annexing
37 municipality and either:

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

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



1 the parties may mutually agree to a prohibition against annexation of
 2 all or part of the territory by the municipality for a period not to exceed
 3 twenty (20) years. The settlement agreement may address issues and
 4 bind the parties to matters relating to the provision by a municipality
 5 of planned services of a noncapital nature and services of a capital
 6 improvement nature (as described in section 13(d) of this chapter), in
 7 addition to a prohibition against annexation. The settlement agreement
 8 is binding upon the successors, heirs, and assigns of the parties to the
 9 agreement. However, the settlement agreement may be amended or
 10 revised periodically on further agreement between the annexing
 11 municipality and landowners who meet the qualifications of subsection
 12 (c)(1) or (c)(2).

13 **(d) A settlement agreement executed after April 30, 2019, is**
 14 **void.**

15 SECTION 23. IC 36-4-3-22, AS AMENDED BY P.L.228-2015,
 16 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall file:

18 (1) each annexation ordinance: ~~against which:~~

19 (A) **against which:**

20 (i) a remonstrance **(in the case of an annexation for which**
 21 **an annexation ordinance is adopted before May 1, 2019);**

22 or

23 (ii) an appeal;

24 has not been filed during the period permitted under this
 25 chapter; or

26 (B) **against which** a remonstrance was filed without a
 27 sufficient number of signatures to meet the requirements of
 28 section 11.3(c) of this chapter, in the case of an annexation for
 29 which an annexation ordinance was adopted after June 30,
 30 2015, **and before May 1, 2019;** or

31 (2) the certified copy of a final and unappealable judgment
 32 ordering an annexation to take place;

33 with the county auditor, circuit court clerk, and board of registration (if
 34 a board of registration exists) of each county in which the annexed
 35 territory is located, the office of the secretary of state, and the office of
 36 census data established by IC 2-5-1.1-12.2. The clerk of the
 37 municipality shall record each annexation ordinance adopted under this
 38 chapter in the office of the county recorder of each county in which the
 39 annexed territory is located.

40 (b) The ordinance or judgment must be filed and recorded no later
 41 than ninety (90) days after:

42 (1) the expiration of the period permitted for:



- 1 (A) a remonstrance **(in the case of an annexation for which**
- 2 **an annexation ordinance is adopted before May 1, 2019);**
- 3 or
- 4 **(B) an appeal under section 15.5 of this chapter;**
- 5 (2) the delivery of a certified order under section 15 of this
- 6 chapter; or
- 7 (3) the date the county auditor files the written certification with
- 8 the legislative body under section 11.2 of this chapter, in the case
- 9 of an annexation:
- 10 (A) described in subsection (a)(1)(B); **and**
- 11 **(B) for which an annexation ordinance is adopted before**
- 12 **May 1, 2019.**
- 13 (c) Failure to record the annexation ordinance as provided in
- 14 subsection (a) does not invalidate the ordinance.
- 15 (d) The county auditor shall forward a copy of any annexation
- 16 ordinance filed under this section to the following:
- 17 (1) The county highway department of each county in which the
- 18 lots or lands affected are located.
- 19 (2) The county surveyor of each county in which the lots or lands
- 20 affected are located.
- 21 (3) Each plan commission, if any, that lost or gained jurisdiction
- 22 over the annexed territory.
- 23 (4) The sheriff of each county in which the lots or lands affected
- 24 are located.
- 25 (5) The township trustee of each township that lost or gained
- 26 jurisdiction over the annexed territory.
- 27 (6) The office of the secretary of state.
- 28 (7) The office of census data established by IC 2-5-1.1-12.2.
- 29 (e) The county auditor may require the clerk of the municipality to
- 30 furnish an adequate number of copies of the annexation ordinance or
- 31 may charge the clerk a fee for photoreproduction of the ordinance. The
- 32 county auditor shall notify the office of the secretary of state and the
- 33 office of census data established by IC 2-5-1.1-12.2 of the date that the
- 34 annexation ordinance is effective under this chapter.
- 35 (f) The county auditor or county surveyor shall, upon determining
- 36 that an annexation ordinance has become effective under this chapter,
- 37 indicate the annexation upon the property taxation records maintained
- 38 in the office of the auditor or the office of the county surveyor.
- 39 SECTION 24. IC 36-4-7-7 IS AMENDED TO READ AS
- 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fiscal
- 41 officer shall present the report of budget estimates to the city legislative
- 42 body under IC 6-1.1-17. After reviewing the report, the legislative body



1 shall prepare an ordinance fixing the rate of taxation for the ensuing
 2 budget year and an ordinance making appropriations for the estimated
 3 department budgets and other city purposes during the ensuing budget
 4 year. The legislative body, in the appropriation ordinance, may reduce
 5 any estimated item from the figure submitted in the report of the fiscal
 6 officer, but it may increase an item only if the executive recommends
 7 an increase. The legislative body shall promptly act on the
 8 appropriation ordinance.

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

13 SECTION 25. IC 36-9-22-2, AS AMENDED BY P.L.18-2018,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]: Sec. 2. (a) The power of the municipal works
 16 board to fix the terms of a contract under this section applies to
 17 contracts for the installation of sewage works that have not been finally
 18 approved or accepted for full maintenance and operation by the
 19 municipality on July 1, 1979.

20 (b) The works board of a municipality may contract with owners of
 21 real property for the construction of sewage works within the
 22 municipality or within four (4) miles outside its corporate boundaries
 23 in order to provide service for the area in which the real property of the
 24 owners is located. The contract must provide, for a period of not to
 25 exceed fifteen (15) years, for the payment to the owners and their
 26 assigns by any owner of real property who:

- 27 (1) did not contribute to the original cost of the sewage works;
- 28 and
- 29 (2) subsequently taps into, uses, or deposits sewage or storm
- 30 waters in the sewage works or any lateral sewers connected to
- 31 them;

32 of a fair pro rata share of the cost of the construction of the sewage
 33 works, subject to the rules of the board and notwithstanding any other
 34 law relating to the functions of local governmental entities. However,
 35 the contract does not apply to any owner of real property who is not a
 36 party to the contract unless the contract or (after June 30, 2013) a
 37 signed memorandum of the contract has been recorded in the office of
 38 the recorder of the county in which the real property of the owner is
 39 located before the owner taps into or connects to the sewers and
 40 facilities. The board may provide that the fair pro rata share of the cost
 41 of construction includes interest at a rate not exceeding the amount of
 42 interest allowed on judgments, and the interest shall be computed from



1 the date the sewage works are approved until the date payment is made
2 to the municipality.

3 (c) The contract must include, as part of the consideration running
4 to the municipality, the release of the right of:

5 (1) the parties to the contract; and

6 (2) the successors in title of the parties to the contract;

7 to remonstrate against pending or future annexations by the
8 municipality of the area served by the sewage works. Any person
9 tapping into or connecting to the sewage works contracted for is
10 considered to waive the person's rights to remonstrate against the
11 annexation of the area served by the sewage works.

12 (d) Notwithstanding subsection (c), the works board of a
13 municipality may waive the provisions of subsection (c) in the contract
14 if the works board considers a waiver of subsection (c) to be in the best
15 interests of the municipality.

16 (e) This subsection does not affect any rights or liabilities accrued,
17 or proceedings begun before July 1, 2013. Those rights, liabilities, and
18 proceedings continue and shall be imposed and enforced under prior
19 law as if this subsection had not been enacted. For contracts executed
20 after June 30, 2013, the release of the right to remonstrate is binding on
21 a successor in title to a party to the contract only if the successor in
22 title:

23 (1) has actual notice of the release; or

24 (2) has constructive notice of the release because the contract, or
25 a signed memorandum of the contract stating the release, has been
26 recorded in the chain of title of the property.

27 (f) Subsection (c) does not apply to a landowner if all of the
28 following conditions apply:

29 (1) The landowner is required to connect to the sewage works
30 because a person other than the landowner has polluted or
31 contaminated the area.

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

34 (g) Subsection (c) does not apply to a landowner who taps into,
35 connects to, or is required to tap into or connect to the sewage works
36 of a municipality only because the municipality provides wholesale
37 sewage service (as defined in IC 8-1-2-61.7) to another municipality
38 that provides sewage service to the landowner.

39 ~~(h) Notwithstanding any other law, a waiver of the right of~~
40 ~~remonstrance executed after June 30, 2015, expires not later than~~
41 ~~fifteen (15) years after the date the waiver was executed.~~

42 (†) (h) This subsection applies to any deed recorded after June 30,



1 2015. This subsection applies only to property that is subject to a
 2 remonstrance waiver. A municipality shall provide written notice to
 3 any successor in title to property within a reasonable time after the
 4 deed is recorded, that a waiver of the right of remonstrance exists with
 5 respect to the property.

6 **(i) Notwithstanding any other law, a release of the right to**
 7 **remonstrate is effective and binding on a landowner or a successor**
 8 **in title to a party to the contract only with regard to an annexation**
 9 **for which the annexation ordinance was adopted before May 1,**
 10 **2019.**

11 SECTION 26. IC 36-9-25-14, AS AMENDED BY P.L.228-2015,
 12 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 14. (a) As to each municipality to which this
 14 chapter applies:

15 (1) all the territory included within the corporate boundaries of
 16 the municipality; and

17 (2) any territory, town, addition, platted subdivision, or unplatted
 18 land lying outside the corporate boundaries of the municipality
 19 that has been taken into the district in accordance with a prior
 20 statute, the sewage or drainage of which discharges into or
 21 through the sewage system of the municipality;

22 constitutes a special taxing district for the purpose of providing for the
 23 sanitary disposal of the sewage of the district in a manner that protects
 24 the public health and prevents the undue pollution of watercourses of
 25 the district.

26 (b) Upon request by:

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

29 (2) a petition of the majority of the resident freeholders in a
 30 platted subdivision or of the owners of unplatted land outside the
 31 boundaries of a municipality, if the platted subdivision or
 32 unplatted land is in the same county;

33 the board may adopt a resolution incorporating all or any part of the
 34 area of the municipality, platted subdivision, or unplatted land into the
 35 district.

36 (c) A request under subsection (b) must be signed and certified as
 37 correct by the secretary of the legislative body, resident freeholders, or
 38 landowners. The original shall be preserved in the records of the board.
 39 The resolution of the board incorporating an area in the district must be
 40 in writing and must contain an accurate description of the area
 41 incorporated into the district. A certified copy of the resolution, signed
 42 by the president and secretary of the board, together with a map



1 showing the boundaries of the district and the location of additional
2 areas, shall be delivered to the auditor of the county within which the
3 district is located. It shall be properly indexed and kept in the
4 permanent records of the offices of the auditor.

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

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

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



1 (g) Except as provided in subsection (j), sewer service agreements
 2 made under subsection (e) must contain a waiver provision that persons
 3 (other than municipalities) who own or occupy property agree for
 4 themselves, their executors, administrators, heirs, devisees, grantees,
 5 successors, and assigns that they will:

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

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

11 (3) not file a complaint or an action against annexation
 12 proceedings.

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

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

23 (2) has constructive notice of the waiver because the sewer
 24 service agreement or a signed memorandum of the sewer service
 25 agreement stating the waiver has been recorded in the chain of
 26 title of the property.

27 (i) This section does not affect any sewer service agreements
 28 entered into before March 13, 1953.

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

31 (1) The landowner is required to connect to a sewer service
 32 because a person other than the landowner has polluted or
 33 contaminated the area.

34 (2) The costs of extension of service or connection to the sewer
 35 service are paid by a person other than the landowner or the
 36 municipality.

37 ~~(k) Notwithstanding any other law, a waiver of the right of~~
 38 ~~remonstrance executed after June 30, 2015, expires not later than~~
 39 ~~fifteen (15) years after the date the waiver was executed.~~

40 ~~(†)~~ (k) This subsection applies to any deed recorded after June 30,
 41 2015. This subsection applies only to property that is subject to a
 42 remonstrance waiver. A municipality shall provide written notice to



1 any successor in title to property within a reasonable time after the
2 deed is recorded, that a waiver of the right of remonstrance has been
3 granted with respect to the property.

4 **(l) Notwithstanding any other law, a release of the right to**
5 **remonstrate is effective and binding on a landowner or a successor**
6 **in title to a party to the contract only with regard to an annexation**
7 **for which the annexation ordinance was adopted before May 1,**
8 **2019.**

9 SECTION 27. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 94, 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 94 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 3

