

SENATE BILL No. 143

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3.

Synopsis: Annexation. Adds the following requirements for certain municipality initiated annexations: (1) A municipality must give notice of the adoption of the annexation ordinance to the county executive. (2) If any member of the county executive objects, the annexation ordinance is void unless a majority of the county executive adopts a resolution approving the annexation. (3) A remonstrance must be filed by landowners within 120 days (instead of 90 days) after publication of notice. (4) In the absence of remonstrance or appeal, the annexation becomes effective 120 days (instead of 90 days) or later after publication of the annexation ordinance. (5) A municipality must provide locations for signing remonstrances beginning the day after publication of notice of the annexation ordinance and ending not earlier than (instead of not later than) 120 days after publication of the notice.

Effective: July 1, 2016.

Buck

January 5, 2016, read first time and referred to Committee on Local Government.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 143

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-4-3-4.3, AS ADDED BY P.L.228-2015,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 4.3. (a) This section applies only to real property
4 that is owned by a county redevelopment commission established under
5 IC 36-7.

6 (b) A municipality may ~~not only~~ annex real property owned by a
7 county redevelopment commission ~~without obtaining if one (1) of the~~
8 **following requirements is met:**

9 (1) **If section 7.2 of this chapter does not apply to the**
10 **annexation, the municipality must obtain** the consent of **at**
11 **least a majority of the members of** the county executive.

12 (2) **If section 7.2 of this chapter applies to the annexation, the**
13 **requirements of section 7.2(b)(1) or 7.2(b)(2) of this chapter,**
14 **whichever applies, are met.**

15 SECTION 2. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,
16 SECTION 116, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) After an ordinance is adopted



1 under section 3, 4, 5, or 5.1 of this chapter, it must be published in the
2 manner prescribed by IC 5-3-1. Except as provided in subsection (b),
3 (c), ~~or~~ (f), **or** (g), in the absence of remonstrance and appeal under
4 section 11 or 15.5 of this chapter, the ordinance takes effect **at least not**
5 **earlier than** ninety (90) days after its publication and upon the filing
6 required by section 22(a) of this chapter.

7 (b) An ordinance described in subsection (d) or adopted under
8 section 3, 4, 5, or 5.1 of this chapter may not take effect during the year
9 preceding a year in which a federal decennial census is conducted. An
10 ordinance that would otherwise take effect during the year preceding
11 a year in which a federal decennial census is conducted takes effect
12 January 1 of the year in which a federal decennial census is conducted.

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

15 (d) Except as provided in subsection (b), whenever a municipality
16 annexes territory, all or part of which lies within a fire protection
17 district (IC 36-8-11), the annexation ordinance (in the absence of
18 remonstrance and appeal under section 11 or 15.5 of this chapter) takes
19 effect the second January 1 that follows the date the ordinance is
20 adopted and upon the filing required by section 22(a) of this chapter.

21 The municipality shall:

22 (1) provide fire protection to that territory beginning the date the
23 ordinance is effective; and

24 (2) send written notice to the fire protection district of the date the
25 municipality will begin to provide fire protection to the annexed
26 territory within ten (10) days of the date the ordinance is adopted.

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

41 (f) This subsection applies to an annexation initiated by property
42 owners under section 5.1 of this chapter in which all property owners



1 within the area to be annexed petition the municipality to be annexed.
 2 Subject to subsections (b) and (d), and in the absence of an appeal
 3 under section 15.5 of this chapter, an annexation ordinance takes effect
 4 **at least not earlier than** thirty (30) days after its publication and upon
 5 the filing required by section 22(a) of this chapter.

6 **(g) This subsection applies only to an annexation ordinance**
 7 **adopted after June 30, 2016. This subsection does not apply to an**
 8 **annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), 5, or 5.1 of this**
 9 **chapter. In the absence of remonstrance and appeal under section**
 10 **11 or 15.5 of this chapter, the ordinance takes effect not earlier**
 11 **than one hundred twenty (120) days after its publication and upon**
 12 **the filing required by section 22(a) of this chapter.**

13 SECTION 3. IC 36-4-3-7.2 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2016]: **Sec. 7.2. (a) This section applies only to an annexation**
 16 **ordinance adopted after June 30, 2016. This subsection does not**
 17 **apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), 5,**
 18 **or 5.1 of this chapter. After an annexation ordinance is adopted,**
 19 **the municipality must do the following:**

20 (1) Publish the annexation ordinance in the manner
 21 prescribed by IC 5-3-1.

22 (2) On the same date the ordinance is published under
 23 subdivision (1), mail or deliver to each member of the county
 24 executive a notice of the adoption of the annexation ordinance
 25 and a copy of the ordinance.

26 **(b) An annexation is not voided and may proceed only in one (1)**
 27 **of the following circumstances:**

28 (1) If a member of the county executive files a written
 29 objection to the annexation with the county auditor not later
 30 than fifteen (15) days after the date that the notice is
 31 published and mailed or delivered under subsection (a), the
 32 county executive shall hold a public meeting not later than
 33 thirty (30) days after the date that notice is published and
 34 mailed or delivered under subsection (a). The annexation may
 35 proceed only if at least a majority of the members of the
 36 county executive adopt a resolution approving the annexation
 37 at the public meeting.

38 (2) A member of the county executive does not file a written
 39 objection to the annexation within the time required under
 40 subdivision (1).

41 **(c) If the annexation may proceed under subsection (b),**
 42 **landowners must file a remonstrance to an annexation not later**



1 **than one hundred twenty (120) days after notice of the ordinance**
 2 **is published under subsection (a). In the absence of remonstrance**
 3 **and appeal under section 11 or 15.5 of this chapter, the ordinance**
 4 **takes effect not earlier than one hundred twenty (120) days after**
 5 **its publication and upon the filing required by section 22(a) of this**
 6 **chapter.**

7 SECTION 4. IC 36-4-3-9, AS AMENDED BY P.L.243-2013,
 8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 9. (a) A town must obtain the consent of both the
 10 metropolitan development commission and the legislative body of a
 11 county having a consolidated city before annexing territory within the
 12 county ~~where having a consolidated city. is located.~~ **However, section**
 13 **7.2 of this chapter does not apply to annexation of territory within**
 14 **the county having a consolidated city.**

15 (b) A town may not annex within an area that extends one (1) mile
 16 outside the corporate boundaries of a second or third class city. A town
 17 may annex within the area that extends:

- 18 (1) more than one (1) mile; and
 19 (2) not more than three (3) miles;

20 outside the corporate boundaries of a second or third class city, if the
 21 annexation by the town does not include territory that extends more
 22 than one (1) mile outside the corporate boundaries of the town.

23 (c) Subsection (b) does not apply to:

- 24 (1) a town that proposes to annex territory located in a different
 25 county than the city; or
 26 (2) an annexation by a town that is:
 27 (A) an annexation under section 5 or 5.1 of this chapter; or
 28 (B) consented to by at least fifty-one percent (51%) of the
 29 owners of land in the territory the town proposes to annex.

30 (d) In determining the total number of landowners of the annexed
 31 territory and whether signers of a consent under subsection (c)(2)(B)
 32 are landowners, the names appearing on the tax duplicate for that
 33 territory constitute prima facie evidence of ownership. Only one (1)
 34 person having an interest in each single property, as evidenced by the
 35 tax duplicate, is considered a landowner for purposes of this section.

36 (e) Each municipality that is known as an included town under
 37 IC 36-3-1-7 is also considered a town for purposes of this section.

38 SECTION 5. IC 36-4-3-9.1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9.1. A municipality
 40 may annex territory within a county **other than the county in which**
 41 **the municipality is located only if in the following circumstances:**

- 42 (1) part or all of that municipality was within the county on



1 ~~January 1, 1982; or~~

2 **If section 7.2 of this chapter does not apply to the annexation,**
 3 **the municipality obtains the consent of at least a majority of**
 4 **the members of the county executive.**

5 ~~(2) the consent of the executive of the county is first obtained. If~~
 6 **section 7.2 applies to the annexation, the requirements of**
 7 **section 7.2(b)(1) or 7.2(b)(2) of this chapter, whichever**
 8 **applies, are met that allow the annexation to proceed.**

9 SECTION 6. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
 10 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2016]: Sec. 11.1. (a) This section applies only to an
 12 annexation ordinance adopted after June 30, 2015.

13 (b) After a municipality adopts an annexation ordinance in
 14 accordance with all applicable notice and hearing requirements under
 15 this chapter, **and meets the requirements of section 7.2 of this**
 16 **chapter if applicable**, the annexation may not proceed unless the
 17 annexing municipality completes the procedures set forth in this
 18 section.

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

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

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

24 to the circuit court clerk and to owners of real property described in
 25 section 2.2 of this chapter. Notice under this section must be published
 26 and mailed or delivered on the same date that notice of the adoption of
 27 the annexation ordinance is published under section 7 of this chapter,
 28 **and if section 7.2 of this chapter applies, the same date that notice**
 29 **is sent to the county executive.**

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

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

36 (A) that remonstrance petitions must be filed not later than
 37 ~~ninety (90)~~ **one hundred twenty (120)** days after the date that
 38 notice of the adoption of the annexation ordinance was
 39 published under section 7 of this chapter; and

40 (B) the last date in accordance with clause (A) that
 41 remonstrance petitions must be filed with the county auditor
 42 to be valid.



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

4 (A) The address of the location.

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

7 (e) **Except as provided in subsection (g)**, beginning the day after
 8 publication of the notice under subsection (c) and ending not ~~later~~
 9 **earlier** than ninety (90) days after publication of the notice under
 10 subsection (c), the municipality shall provide both of the following:

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

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

16 The location must meet the following requirements:

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

18 (i) owned or leased by the state or a political subdivision,
 19 including a public library, community center, or parks and
 20 recreation building; and

21 (ii) located within the boundaries of the municipality or the
 22 annexation territory.

23 (B) The location must be open according to the following:

24 (i) On a day that the location is open on a weekday, the
 25 location must be open at a minimum from 5 p.m. to 9 p.m.

26 (ii) On a day that the location is open on a Saturday or
 27 Sunday, the location must be open at least four (4) hours
 28 during the period from 9 a.m. to 5 p.m.

29 (f) An additional location may not be open on a day that is a legal
 30 holiday. At any location and during the hours that a remonstrance
 31 petition may be signed, the municipality shall have a person present:

32 (1) to witness the signing of remonstrance petitions; and

33 (2) who shall swear and affirm before a notary public that the
 34 person witnessed each person sign the remonstrance petition.

35 (g) **This subsection applies only to an annexation ordinance**
 36 **adopted after June 30, 2016. If section 7.2 of this chapter applies to**
 37 **the annexation, the municipality must provide the locations for**
 38 **persons to sign remonstrance petitions beginning the day after**
 39 **publication of the notice under subsection (c) and ending not**
 40 **earlier than one hundred twenty (120) days after publication of the**
 41 **notice under subsection (c).**

