

SENATE BILL No. 171

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3.

Synopsis: Limits on annexation ordinances. Limits a municipality to adoption of one annexation ordinance per calendar year. Provides that an annexation ordinance is void if, for the assessment date in the calendar year preceding the calendar year in which the annexation ordinance is adopted, the total gross assessed value of property within the annexation territory is more than 15% of the total gross assessed value of the annexing municipality.

Effective: July 1, 2018.

Buck

January 8, 2018, read first time and referred to Committee on Local Government.



Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE BILL No. 171

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

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

1 SECTION 1. IC 36-4-3-3.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3.5. (a) An annexation
3 ordinance adopted under this chapter must contain the following
4 information:
5 (1) A description of the boundaries of the territory to be annexed,
6 including any public highway or right-of-way.
7 (2) The approximate number of acres in the territory to be
8 annexed.
9 (3) A description of any special terms and conditions adopted
10 under section 8 of this chapter.
11 **(4) This subdivision applies only to an annexation ordinance**
12 **adopted after June 30, 2018. The total gross assessed value of**
13 **all taxable property of:**
14 **(A) the annexing municipality; and**
15 **(B) the territory to be annexed;**
16 **for the assessment date in the calendar year preceding the**
17 **calendar year in which the annexation ordinance is adopted.**



1 (b) An ordinance adopted under section 3 or 4 of this chapter must
 2 also contain a description of any property tax abatements adopted
 3 under section 8.5 of this chapter.

4 SECTION 2. IC 36-4-3-3.6 IS ADDED TO THE INDIANA CODE
 5 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 6 **1, 2018]: Sec. 3.6. (a) This section applies only to an annexation for**
 7 **which the annexation ordinance is adopted after June 30, 2018.**

8 (b) **This subsection does not apply to a municipality that is**
 9 **prohibited from adopting an annexation ordinance under section**
 10 **11.8 or 15 of this chapter. In a calendar year, a municipality may**
 11 **not adopt more than one (1) annexation ordinance.**

12 (c) **An annexation ordinance is void if, for the assessment date**
 13 **in the calendar year preceding the calendar year in which the**
 14 **annexation ordinance is adopted, the total gross assessed value of**
 15 **all taxable property of the territory to be annexed is more than**
 16 **fifteen percent (15%) of the total gross assessed value of all taxable**
 17 **property in the annexing municipality (without considering the**
 18 **territory to be annexed).**

19 SECTION 3. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2018]: Sec. 13. (a) Except as provided in subsection (e), at the
 22 hearing under section 12 of this chapter, the court shall order a
 23 proposed annexation to take place if the following requirements are
 24 met:

- 25 (1) The requirements of either subsection (b) or (c).
 26 (2) The requirements of subsection (d).
 27 (3) The requirements of subsection (i).

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

- 30 (1) That the territory sought to be annexed is contiguous to the
 31 municipality.
 32 (2) One (1) of the following:
 33 (A) The resident population density of the territory sought to
 34 be annexed is at least three (3) persons per acre.
 35 (B) Sixty percent (60%) of the territory is subdivided.
 36 (C) The territory is zoned for commercial, business, or
 37 industrial uses.

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

- 40 (1) That the territory sought to be annexed is:
 41 (A) contiguous to the municipality as required by section 1.5
 42 of this chapter, except that at least one-fourth (1/4), instead of



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



1 procedures, and planning criteria.

2 (6) This subdivision applies to a fiscal plan prepared after June
3 30, 2015. The estimated effect of the proposed annexation on
4 taxpayers in each of the political subdivisions to which the
5 proposed annexation applies, including the expected tax rates, tax
6 levies, expenditure levels, service levels, and annual debt service
7 payments in those political subdivisions for four (4) years after
8 the effective date of the annexation.

9 (7) This subdivision applies to a fiscal plan prepared after June
10 30, 2015. The estimated effect the proposed annexation will have
11 on municipal finances, specifically how municipal tax revenues
12 will be affected by the annexation for four (4) years after the
13 effective date of the annexation.

14 (8) This subdivision applies to a fiscal plan prepared after June
15 30, 2015. Any estimated effects on political subdivisions in the
16 county that are not part of the annexation and on taxpayers
17 located in those political subdivisions for four (4) years after the
18 effective date of the annexation.

19 (9) This subdivision applies to a fiscal plan prepared after June
20 30, 2015. A list of all parcels of property in the annexation
21 territory and the following information regarding each parcel:

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

23 (B) The parcel identification number.

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

25 (D) The existence of a known waiver of the right to
26 remonstrate on the parcel. This clause applies only to a fiscal
27 plan prepared after June 30, 2016.

28 (e) At the hearing under section 12 of this chapter, the court shall do
29 the following:

30 (1) Consider evidence on the conditions listed in ~~subdivision~~
31 **subdivisions (2) and (3).**

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

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

39 (i) Police and fire protection.

40 (ii) Street and road maintenance.

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



- 1 (i) the personal finances; or
 2 (ii) the business finances;
 3 of a resident or owner of land. The personal and business
 4 financial records of the residents or owners of land, including
 5 state, federal, and local income tax returns, may not be subject
 6 to a subpoena or discovery proceedings.
- 7 (C) The annexation is not in the best interests of the owners of
 8 land in the territory proposed to be annexed as set forth in
 9 subsection (f).
- 10 (D) This clause applies only to an annexation for which an
 11 annexation ordinance is adopted before July 1, 2015. One (1)
 12 of the following opposes the annexation:
 13 (i) At least sixty-five percent (65%) of the owners of land in
 14 the territory proposed to be annexed.
 15 (ii) The owners of more than seventy-five percent (75%) in
 16 assessed valuation of the land in the territory proposed to be
 17 annexed.
- 18 Evidence of opposition may be expressed by any owner of land
 19 in the territory proposed to be annexed.
- 20 (E) This clause applies only to an annexation for which an
 21 annexation ordinance is adopted after June 30, 2015. One (1)
 22 of the following opposes the annexation:
 23 (i) At least fifty-one percent (51%) of the owners of land in
 24 the territory proposed to be annexed.
 25 (ii) The owners of more than sixty percent (60%) in assessed
 26 valuation of the land in the territory proposed to be annexed.
- 27 The remonstrance petitions filed with the court under section
 28 11 of this chapter are evidence of the number of owners of
 29 land that oppose the annexation, minus any written revocations
 30 of remonstrances that are filed with the court under section 11
 31 of this chapter.
- 32 (F) This clause applies only to an annexation for which an
 33 annexation ordinance is adopted before July 1, 2015. This
 34 clause applies only to an annexation in which eighty percent
 35 (80%) of the boundary of the territory proposed to be annexed
 36 is contiguous to the municipality and the territory consists of
 37 not more than one hundred (100) parcels. At least seventy-five
 38 percent (75%) of the owners of land in the territory proposed
 39 to be annexed oppose the annexation as determined under
 40 section 11(b) of this chapter.
- 41 **(3) This subdivision applies only to an annexation for which**
 42 **the annexation ordinance was adopted after June 30, 2018.**



1 **Order a proposed annexation not to take place if the court**
 2 **finds:**

3 **(A) the annexation ordinance was the second or subsequent**
 4 **annexation ordinance adopted by the municipality during**
 5 **a calendar year; or**

6 **(B) for the assessment date in the calendar year preceding**
 7 **the calendar year in which the annexation ordinance was**
 8 **adopted, the total gross assessed value of all taxable**
 9 **property of the territory to be annexed was more than**
 10 **fifteen percent (15%) of the total gross assessed value of all**
 11 **taxable property in the annexing municipality (without**
 12 **considering the territory to be annexed).**

13 (f) The municipality under subsection (e)(2)(C) bears the burden of
 14 proving that the annexation is in the best interests of the owners of land
 15 in the territory proposed to be annexed. In determining this issue, the
 16 court may consider whether the municipality has extended sewer or
 17 water services to the entire territory to be annexed:

18 (1) within the three (3) years preceding the date of the
 19 introduction of the annexation ordinance; or

20 (2) under a contract in lieu of annexation entered into under
 21 IC 36-4-3-21.

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

25 (g) The most recent:

26 (1) federal decennial census;

27 (2) federal special census;

28 (3) special tabulation; or

29 (4) corrected population count;

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

33 (h) A municipality that prepares a fiscal plan after June 30, 2015,
 34 must comply with this subsection. A municipality may not amend the
 35 fiscal plan after the date that a remonstrance is filed with the court
 36 under section 11 of this chapter, unless amendment of the fiscal plan
 37 is consented to by at least sixty-five percent (65%) of the persons who
 38 signed the remonstrance petition.

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

41 (A) the outreach program requirements and notice requirements
 42 of section 1.7 of this chapter; and



1 (B) the requirements of section 11.1 of this chapter.

2 SECTION 4. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
3 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2018]: Sec. 15. (a) The court's judgment under section 12 or
5 15.5 of this chapter must specify the annexation ordinance on which
6 the remonstrance is based. The clerk of the court shall deliver a
7 certified copy of the final and unappealable judgment to the clerk of the
8 municipality. The clerk of the municipality shall:

9 (1) record the judgment in the clerk's ordinance record; and

10 (2) make a cross-reference to the record of the judgment on the
11 margin of the record of the annexation ordinance.

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

16 (1) the judgment of the circuit or superior court; or

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

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

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

24 (2) before the hearing commences on the remonstrance under
25 section 11(c) of this chapter.

26 A municipality may not make further attempts to annex the territory or
27 any part of the territory during the twelve (12) months after the date the
28 municipality repeals the annexation ordinance. ~~This subsection does
29 not prohibit an annexation of the territory or part of the territory that is
30 petitioned for under section 5 or 5.1 of this chapter.~~

31 (d) This subsection applies if a municipality repeals the annexation
32 ordinance:

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

36 (2) before the hearing commences on the remonstrance under
37 section 11(c) of this chapter.

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



1 (e) This subsection applies if a municipality repeals the annexation
2 ordinance:

3 (1) either:

4 (A) at least one hundred twenty-one (121) days after
5 publication of the ordinance under section 7(a) of this chapter
6 but before the hearing commences on the remonstrance under
7 section 11(c) of this chapter; or

8 (B) after the hearing commences on the remonstrance as set
9 forth in section 11(c) of this chapter; and

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

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

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

