



January 26, 2018

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## SENATE BILL No. 171

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DIGEST OF SB 171 (Updated January 24, 2018 3:38 pm - DI 87)

**Citations Affected:** IC 36-4.

**Synopsis:** Limits on annexation ordinances. Provides that a municipality may adopt not more than two annexation ordinances during a calendar year (excluding voluntary annexations) and that a third or subsequent ordinance adopted in a calendar year is void. Provides that all annexation ordinances adopted by a municipality during a calendar year are void if, for the assessment date in the calendar year preceding the calendar year in which the annexation ordinance or ordinances are adopted, the total gross assessed value of property within the territory annexed by all annexation ordinances adopted during the calendar year is more than 15% of the total gross assessed value of the annexing municipality.

**Effective:** July 1, 2018.

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## Buck

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January 8, 2018, read first time and referred to Committee on Local Government.  
January 25, 2018, amended, reported favorably — Do Pass.

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SB 171—LS 6865/DI 87





January 26, 2018

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.**

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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 an annexation under  
 9 section 5 or 5.1 of this chapter. Except as provided in subsection  
 10 (c), a municipality may not adopt more than two (2) annexation  
 11 ordinances during a calendar year. A third or subsequent  
 12 annexation ordinance adopted by a municipality during a calendar  
 13 year is void.**

14 (c) **A municipality may not annex territory during a calendar  
 15 year that has a total gross assessed value that exceeds the amount  
 16 set forth in this subsection. All annexation ordinances adopted by  
 17 a municipality during a calendar year are void if, for the  
 18 assessment date in the calendar year preceding the calendar year  
 19 in which the annexation ordinance or ordinances are adopted, the  
 20 total gross assessed value of all taxable property of the territory  
 21 that is annexed in all of the ordinances adopted during the calendar  
 22 year is more than fifteen percent (15%) of the total gross assessed  
 23 value of all taxable property in the annexing municipality (without  
 24 considering the territory to be annexed in the ordinance or  
 25 ordinances).**

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

- 32 (1) The requirements of either subsection (b) or (c).
- 33 (2) The requirements of subsection (d).
- 34 (3) The requirements of subsection (i).

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

- 37 (1) That the territory sought to be annexed is contiguous to the  
 38 municipality.
- 39 (2) One (1) of the following:
  - 40 (A) The resident population density of the territory sought to  
 41 be annexed is at least three (3) persons per acre.
  - 42 (B) Sixty percent (60%) of the territory is subdivided.



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



1 construction, street lighting, sewer facilities, water facilities, and  
 2 stormwater drainage facilities, will be provided to the annexed  
 3 territory within three (3) years after the effective date of the  
 4 annexation in the same manner as those services are provided to  
 5 areas within the corporate boundaries, regardless of similar  
 6 topography, patterns of land use, and population density, and in  
 7 a manner consistent with federal, state, and local laws,  
 8 procedures, and planning criteria.

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

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

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

26 (9) This subdivision applies to a fiscal plan prepared after June  
 27 30, 2015. A list of all parcels of property in the annexation  
 28 territory and the following information regarding each parcel:

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

30 (B) The parcel identification number.

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

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

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

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

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

42 (A) This clause applies only to an annexation for which an



1 annexation ordinance was adopted before July 1, 2015. The  
 2 following services are adequately furnished by a provider  
 3 other than the municipality seeking the annexation:

- 4 (i) Police and fire protection.
- 5 (ii) Street and road maintenance.

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

- 8 (i) the personal finances; or
- 9 (ii) the business finances;

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

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

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

- 20 (i) At least sixty-five percent (65%) of the owners of land in  
 21 the territory proposed to be annexed.
- 22 (ii) The owners of more than seventy-five percent (75%) in  
 23 assessed valuation of the land in the territory proposed to be  
 24 annexed.

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

27 (E) This clause applies only to an annexation for which an  
 28 annexation ordinance is adopted after June 30, 2015. One (1)  
 29 of the following opposes the annexation:

- 30 (i) At least fifty-one percent (51%) of the owners of land in  
 31 the territory proposed to be annexed.
- 32 (ii) The owners of more than sixty percent (60%) in assessed  
 33 valuation of the land in the territory proposed to be annexed.

34 The remonstrance petitions filed with the court under section  
 35 11 of this chapter are evidence of the number of owners of  
 36 land that oppose the annexation, minus any written revocations  
 37 of remonstrances that are filed with the court under section 11  
 38 of this chapter.

39 (F) This clause applies only to an annexation for which an  
 40 annexation ordinance is adopted before July 1, 2015. This  
 41 clause applies only to an annexation in which eighty percent  
 42 (80%) of the boundary of the territory proposed to be annexed



1 is contiguous to the municipality and the territory consists of  
 2 not more than one hundred (100) parcels. At least seventy-five  
 3 percent (75%) of the owners of land in the territory proposed  
 4 to be annexed oppose the annexation as determined under  
 5 section 11(b) of this chapter.

6 **(3) This subdivision applies only to an annexation for which**  
 7 **the annexation ordinance was adopted after June 30, 2018.**  
 8 **Order a proposed annexation not to take place if the court**  
 9 **finds:**

10 **(A) the annexation ordinance was the second or subsequent**  
 11 **annexation ordinance adopted by the municipality during**  
 12 **a calendar year; or**

13 **(B) the annexation ordinance is void under section 3.6 of**  
 14 **this chapter.**

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

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

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

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

27 (g) The most recent:

28 (1) federal decennial census;

29 (2) federal special census;

30 (3) special tabulation; or

31 (4) corrected population count;

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

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

41 (i) The municipality must submit proof that the municipality has  
 42 complied with:





- 1 (A) the outreach program requirements and notice requirements  
 2 of section 1.7 of this chapter; and  
 3 (B) the requirements of section 11.1 of this chapter.
- 4 SECTION 4. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,  
 5 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2018]: Sec. 15. (a) The court's judgment under section 12 or  
 7 15.5 of this chapter must specify the annexation ordinance on which  
 8 the remonstrance is based. The clerk of the court shall deliver a  
 9 certified copy of the final and unappealable judgment to the clerk of the  
 10 municipality. The clerk of the municipality shall:
- 11 (1) record the judgment in the clerk's ordinance record; and  
 12 (2) make a cross-reference to the record of the judgment on the  
 13 margin of the record of the annexation ordinance.
- 14 (b) If a final and unappealable judgment under section 12 or 15.5 of  
 15 this chapter is adverse to annexation, the municipality may not make  
 16 further attempts to annex the territory or any part of the territory during  
 17 the four (4) years after the later of:
- 18 (1) the judgment of the circuit or superior court; or  
 19 (2) the date of the final disposition of all appeals to a higher court;  
 20 unless the annexation is petitioned for under section 5 or 5.1 of this  
 21 chapter.
- 22 (c) This subsection applies if a municipality repeals the annexation  
 23 ordinance:
- 24 (1) less than sixty-one (61) days after the publication of the  
 25 ordinance under section 7(a) of this chapter; and  
 26 (2) before the hearing commences on the remonstrance under  
 27 section 11(c) of this chapter.
- 28 A municipality may not make further attempts to annex the territory or  
 29 any part of the territory during the twelve (12) months after the date the  
 30 municipality repeals the annexation ordinance. This subsection does  
 31 not prohibit an annexation of the territory or part of the territory that is  
 32 petitioned for under section 5 or 5.1 of this chapter, **subject to the**  
 33 **limitations in section 3.6(c) of this chapter.**
- 34 (d) This subsection applies if a municipality repeals the annexation  
 35 ordinance:
- 36 (1) at least sixty-one (61) days but not more than one hundred  
 37 twenty (120) days after the publication of the ordinance under  
 38 section 7(a) of this chapter; and  
 39 (2) before the hearing commences on the remonstrance under  
 40 section 11(c) of this chapter.
- 41 A municipality may not make further attempts to annex the territory or  
 42 any part of the territory during the twenty-four (24) months after the



1 date the municipality repeals the annexation ordinance. This subsection  
2 does not prohibit an annexation of the territory or part of the territory  
3 that is petitioned for under section 5 or 5.1 of this chapter, **subject to**  
4 **the limitations in section 3.6(c) of this chapter.**

5 (e) This subsection applies if a municipality repeals the annexation  
6 ordinance:

7 (1) either:

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

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

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

16 A municipality may not make further attempts to annex the territory or  
17 any part of the territory during the forty-two (42) months after the date  
18 the municipality repeals the annexation ordinance. This subsection  
19 does not prohibit an annexation of the territory or part of the territory  
20 that is petitioned for under section 5 or 5.1 of this chapter, **subject to**  
21 **the limitations in section 3.6(c) of this chapter.**

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



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 4 through 18, begin a new paragraph and insert:

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

**(b) This subsection does not apply to an annexation under section 5 or 5.1 of this chapter. Except as provided in subsection (c), a municipality may not adopt more than two (2) annexation ordinances during a calendar year. A third or subsequent annexation ordinance adopted by a municipality during a calendar year is void.**

**(c) A municipality may not annex territory during a calendar year that has a total gross assessed value that exceeds the amount set forth in this subsection. All annexation ordinances adopted by a municipality during a calendar year are void if, for the assessment date in the calendar year preceding the calendar year in which the annexation ordinance or ordinances are adopted, the total gross assessed value of all taxable property of the territory that is annexed in all of the ordinances adopted during the calendar year is more than fifteen percent (15%) of the total gross assessed value of all taxable property in the annexing municipality (without considering the territory to be annexed in the ordinance or ordinances)."**

Page 6, delete lines 6 through 12, begin a new line double block indented and insert:

**"(B) the annexation ordinance is void under section 3.6 of this chapter."**

Page 7, line 28, reset in roman "This subsection does".

Page 7, reset in roman line 29.

Page 7, line 30, reset in roman "petitioned for under section 5 or 5.1 of this".

Page 7, line 30, delete "chapter." and insert "chapter, **subject to the limitations in section 3.6(c) of this chapter.**"

Page 7, line 40, reset in roman "This subsection".

Page 7, reset in roman line 41.

Page 7, line 42, reset in roman "that is petitioned for under section 5 or 5.1 of this".

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Page 7, line 42, delete "chapter." and insert "chapter, **subject to the limitations in section 3.6(c) of this chapter.**".

Page 8, line 14, reset in roman "This subsection".

Page 8, reset in roman line 15.

Page 8, line 16, reset in roman "that is petitioned for under section 5 or 5.1 of this".

Page 8, line 16, delete "chapter." and insert "chapter, **subject to the limitations in section 3.6(c) of this chapter.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 171 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 0.

