



Reprinted
February 6, 2018

SENATE BILL No. 171

DIGEST OF SB 171 (Updated February 5, 2018 2:37 pm - DI 87)

Citations Affected: IC 36-4.

Synopsis: Annexation limits. Provides that a municipality may not annex territory during a calendar year that has a total gross assessed value of more than 15% of the total gross assessed value of the annexing municipality.

Effective: July 1, 2018.

Buck, Bohacek, Koch

January 8, 2018, read first time and referred to Committee on Local Government.
January 25, 2018, amended, reported favorably — Do Pass.
January 29, 2018, read second time, ordered engrossed. Engrossed.
February 1, 2018, returned to second reading.
February 5, 2018, re-read second time, amended, ordered engrossed.

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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 (without considering the**
15 **territory to be annexed in the ordinance or ordinances);**
16 **and**
17 **(B) the territory to be annexed;**

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- 1 **for the assessment date in the calendar year preceding the**
 2 **calendar year in which the annexation ordinance is adopted.**
- 3 (b) An ordinance adopted under section 3 or 4 of this chapter must
 4 also contain a description of any property tax abatements adopted
 5 under section 8.5 of this chapter.
- 6 SECTION 2. IC 36-4-3-3.6 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2018]: **Sec. 3.6. (a) This section applies only to an annexation for**
 9 **which the annexation ordinance is adopted after June 30, 2018.**
- 10 **(b) A municipality may not proceed with an annexation or**
 11 **annexations that would result in the municipality annexing**
 12 **territory during the calendar year that has a total gross assessed**
 13 **value that exceeds the limit set forth in this section.**
- 14 **(c) A municipality may not proceed with an annexation or**
 15 **annexations if, for the assessment date in the calendar year**
 16 **preceding the calendar year in which the annexation ordinance or**
 17 **ordinances are adopted, the total gross assessed value of all taxable**
 18 **property of the territory that is annexed in all annexation**
 19 **ordinances adopted during the calendar year is more than fifteen**
 20 **percent (15%) of the total gross assessed value of all taxable**
 21 **property in the annexing municipality (without considering the**
 22 **territory to be annexed in the ordinance or ordinances).**
- 23 SECTION 3. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2018]: Sec. 13. (a) Except as provided in subsection (e), at the
 26 hearing under section 12 of this chapter, the court shall order a
 27 proposed annexation to take place if the following requirements are
 28 met:
- 29 (1) The requirements of either subsection (b) or (c).
 30 (2) The requirements of subsection (d).
 31 (3) The requirements of subsection (i).
- 32 (b) The requirements of this subsection are met if the evidence
 33 establishes the following:
- 34 (1) That the territory sought to be annexed is contiguous to the
 35 municipality.
 36 (2) One (1) of the following:
 37 (A) The resident population density of the territory sought to
 38 be annexed is at least three (3) persons per acre.
 39 (B) Sixty percent (60%) of the territory is subdivided.
 40 (C) The territory is zoned for commercial, business, or
 41 industrial uses.
 42 (c) The requirements of this subsection are met if the evidence



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



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

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

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

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

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

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

27 (B) The parcel identification number.

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

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

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

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

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

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



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



- 1 to be annexed oppose the annexation as determined under
 2 section 11(b) of this chapter.
- 3 **(3) This subdivision applies only to an annexation for which**
 4 **the annexation ordinance was adopted after June 30, 2018.**
 5 **Order a proposed annexation not to take place if the court**
 6 **finds the annexation may not proceed under section 3.6 of this**
 7 **chapter.**
- 8 (f) The municipality under subsection (e)(2)(C) bears the burden of
 9 proving that the annexation is in the best interests of the owners of land
 10 in the territory proposed to be annexed. In determining this issue, the
 11 court may consider whether the municipality has extended sewer or
 12 water services to the entire territory to be annexed:
- 13 (1) within the three (3) years preceding the date of the
 14 introduction of the annexation ordinance; or
 15 (2) under a contract in lieu of annexation entered into under
 16 IC 36-4-3-21.
- 17 The court may not consider the provision of water services as a result
 18 of an order by the Indiana utility regulatory commission to constitute
 19 the provision of water services to the territory to be annexed.
- 20 (g) The most recent:
- 21 (1) federal decennial census;
 22 (2) federal special census;
 23 (3) special tabulation; or
 24 (4) corrected population count;
- 25 shall be used as evidence of resident population density for purposes
 26 of subsection (b)(2)(A), but this evidence may be rebutted by other
 27 evidence of population density.
- 28 (h) A municipality that prepares a fiscal plan after June 30, 2015,
 29 must comply with this subsection. A municipality may not amend the
 30 fiscal plan after the date that a remonstrance is filed with the court
 31 under section 11 of this chapter, unless amendment of the fiscal plan
 32 is consented to by at least sixty-five percent (65%) of the persons who
 33 signed the remonstrance petition.
- 34 (i) The municipality must submit proof that the municipality has
 35 complied with:
- 36 (A) the outreach program requirements and notice requirements
 37 of section 1.7 of this chapter; and
 38 (B) the requirements of section 11.1 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.**".

Re-number 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.

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 171, which is eligible for third reading, be returned to second reading for purposes of amendment.

BUCK

SENATE MOTION

Madam President: I move that Senate Bill 171 be amended to read as follows:

Page 1, line 14, delete "municipality; and" and insert "**municipality (without considering the territory to be annexed in the ordinance or ordinances); and**".

Page 2, delete lines 8 through 25, begin a new paragraph and insert:

"(b) A municipality may not proceed with an annexation or annexations that would result in the municipality annexing territory during the calendar year that has a total gross assessed value that exceeds the limit set forth in this section.

(c) A municipality may not proceed with an annexation or



annexations 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 annexation 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, line 9, delete "finds:" and insert "**finds the annexation may not proceed under section 3.6 of this chapter.**".

Page 6, delete lines 10 through 14.

Page 7, delete lines 4 through 42.

Delete page 8.

(Reference is to SB 171 as printed January 26, 2018.)

BUCK

