



February 20, 2015

SENATE BILL No. 330

DIGEST OF SB 330 (Updated February 18, 2015 3:22 pm - DI 87)

Citations Affected: IC 13-18; IC 36-4; IC 36-9.

Synopsis: Annexations. Provides, with certain exceptions, with regard to annexations for which an annexation ordinance is adopted after June 30, 2015 that in order for an annexation to proceed, a municipality that initiates an annexation must file a petition with the court signed by at least: (1) 51% of the owners of land (that is not exempt from property taxes) in the territory; or (2) the owners of more than 75% in assessed valuation of land (that is not exempt from property taxes) in the territory. Provides that, for an annexation adopted after June 30, 2015: (1) if the court finds that the municipality's petition has a sufficient number of signatures, a hearing must be conducted to review the annexation and fiscal plan; and (2) allows a person that meets certain requirements to intervene as a party at the hearing to review the annexation and fiscal plan. Requires, with regard to annexations for which an annexation ordinance is adopted after June 30, 2015, that an annexing municipality assume the outstanding debt that a county incurs in constructing or improving infrastructure located within the annexation territory. Adds provisions regarding the validity of a signature on a petition for annexation for which an annexation ordinance is adopted after June 30, 2015. Provides that for annexations after June 30, 2015, a waiver or release of the right of remonstrance by a landowner or successor in title is void and may not be considered or counted as a valid signature on a petition for annexation. Allows landowners who do not reside within an annexation territory to sign a petition filed after June 30, 2015, requesting annexation under the "supervoluntary" annexation procedures. In the case of an annexation
(Continued next page)

Effective: July 1, 2015.

Boots, Head, Buck, Smith J

January 8, 2015, read first time and referred to Committee on Local Government.
February 19, 2015, amended, reported favorably — Do Pass.

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Digest Continued

for which an annexation ordinance is adopted after June 30, 2015, eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Provides that in all circumstances an annexation becomes effective when the ordinance or a final unappealable judgment is filed by the municipal clerk. Provides that a settlement agreement in lieu of annexation executed after June 30, 2015 is void. In the case of an annexation for which an annexation ordinance is adopted after June 30, 2015, prohibits a municipality from amending the fiscal plan after the date that the municipality files the annexation petition with the court, unless the persons signing the petition consent to the amendment.



February 20, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 330

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 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The persons
3 involved shall negotiate the terms for connection and service under this
4 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

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1 (2) is considered a covenant running with the land.

2 **(d) Notwithstanding any other law, a waiver of the right to**
 3 **remonstrate is effective and binding on a landowner or a successor**
 4 **in title only with regard to an annexation for which the annexation**
 5 **ordinance was adopted before July 1, 2015.**

6 SECTION 2. IC 36-4-3-3.1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.1. (a) This section
 8 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),
 9 4(h), or 4.1 of this chapter.

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

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

17 (d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter,
 18 the municipality shall establish and adopt the written fiscal plan before
 19 adopting the annexation ordinance.

20 SECTION 3. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE
 21 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2015]: **Sec. 4.2. (a) As used in this section, "infrastructure"**
 23 **means the capital improvements that comprise:**

- 24 (1) a sanitary sewer system or wastewater treatment facility;
 25 (2) a building and appurtenances;
 26 (3) a park or recreational facility;
 27 (4) a road, street, highway, or bridge; or
 28 (5) a water treatment, water storage, or water distribution
 29 facility.

30 (b) **This section applies only to an annexation for which an**
 31 **annexation ordinance is adopted after June 30, 2015. If a**
 32 **municipality annexes territory that contains infrastructure**
 33 **constructed or improved by the county, the annexing municipality**
 34 **shall assume and is responsible for paying all indebtedness of the**
 35 **county incurred in constructing or improving the infrastructure**
 36 **that is outstanding on the date the annexation is effective. The**
 37 **rights of a bondholder with respect to the indebtedness remains the**
 38 **same, although the powers, duties, agreements, and liabilities of the**
 39 **county have been transferred to the annexing municipality, and the**
 40 **annexing municipality is considered to have assumed all those**
 41 **powers, duties, agreements, and liabilities.**

42 SECTION 4. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2015]: Sec. 5. **(a) A municipality may not**
 2 **promote or collect signatures on an annexation petition that is filed**
 3 **under this section after June 30, 2015.**

4 ~~(a)~~ **(b)** If the owners of land located outside of but contiguous to a
 5 municipality want to have territory containing that land annexed to the
 6 municipality, they may file with the legislative body of the municipality
 7 a petition:

8 (1) signed by at least:

9 (A) fifty-one percent (51%) of:

10 (i) the owners of land in the territory sought to be annexed,

11 **in the case of a petition filed before July 1, 2015; or**

12 **(ii) in the territory sought to be annexed that is not**
 13 **exempt from property taxes under IC 6-1.1-10 or any**
 14 **other state law, in the case of a petition filed after June**
 15 **30, 2015; or**

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

18 (2) requesting an ordinance annexing the area described in the
 19 petition.

20 ~~(b)~~ **(c)** The petition circulated by the landowners must include on
 21 each page where signatures are affixed a heading that is substantially
 22 similar to the following:

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

25 ~~(c)~~ **(d)** Except as provided in section 5.1 of this chapter, if the
 26 legislative body fails to pass the ordinance within one hundred fifty
 27 (150) days after the date of filing of a petition under subsection ~~(a)~~; **(b)**,
 28 the petitioners may file a duplicate copy of the petition in the circuit or
 29 superior court of a county in which the territory is located, and shall
 30 include a written statement of why the annexation should take place.
 31 Notice of the proceedings, in the form of a summons, shall be served
 32 on the municipality named in the petition. The municipality is the
 33 defendant in the cause and shall appear and answer.

34 ~~(d)~~ **(e)** The court shall hear and determine the petition without a
 35 jury, and shall order the proposed annexation to take place only if the
 36 evidence introduced by the parties establishes that:

37 (1) essential municipal services and facilities are not available to
 38 the residents of the territory sought to be annexed;

39 (2) the municipality is physically and financially able to provide
 40 municipal services to the territory sought to be annexed;

41 (3) the population density of the territory sought to be annexed is
 42 at least three (3) persons per acre; and



1 (4) the territory sought to be annexed is contiguous to the
2 municipality.

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

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

9 SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section~~
11 ~~applies to an annexation in which~~ Owners of land located outside but
12 contiguous to a municipality **may** file a petition with the legislative
13 body of the municipality:

14 (1) requesting an ordinance annexing the area described in the
15 petition; and

16 (2) signed by:

17 (A) one hundred percent (100%) of the landowners that reside
18 within the territory that is proposed to be annexed, **in the case**
19 **of a petition filed before July 1, 2015; and**

20 (B) **in the case of a petition filed after June 30, 2015, one**
21 **hundred percent (100%) of the owners of land that is:**

22 (i) **located within the territory that is proposed to be**
23 **annexed; and**

24 (ii) **not exempt from property taxes under IC 6-1.1-10 or**
25 **any other state law.**

26 (b) Sections 2.1 and 2.2 of this chapter do not apply to an
27 annexation under this section.

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

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

33 (d) The municipality may:

34 (1) adopt an annexation ordinance annexing the territory; and

35 (2) adopt a fiscal plan and establish a definite policy by resolution
36 of the legislative body;

37 after the legislative body has held a public hearing on the proposed
38 annexation.

39 (e) The municipality may introduce and hold the public hearing on
40 the annexation ordinance not later than thirty (30) days after the
41 petition is filed with the legislative body. Notice of the public hearing
42 may be published one (1) time in accordance with IC 5-3-1 at least



1 twenty (20) days before the hearing. All interested parties must have
2 the opportunity to testify at the hearing as to the proposed annexation.

3 (f) The municipality may adopt the annexation ordinance not earlier
4 than fourteen (14) days after the public hearing under subsection (e).

5 (g) A landowner may withdraw the landowner's signature from the
6 petition not more than thirteen (13) days after the municipality adopts
7 the fiscal plan by providing written notice to the office of the clerk of
8 the municipality. If a landowner withdraws the landowner's signature,
9 the petition shall automatically be considered a voluntary petition that
10 is filed with the legislative body under section 5 of this chapter,
11 fourteen (14) days after the date the fiscal plan is adopted. All
12 provisions applicable to a petition initiated under section 5 of this
13 chapter apply to the petition.

14 (h) If the municipality does not adopt an annexation ordinance
15 within sixty (60) days after the landowners file the petition with the
16 legislative body, the landowners may file a duplicate petition with the
17 circuit or superior court of a county in which the territory is located.
18 The court shall determine whether the annexation shall take place as
19 set forth in section 5 of this chapter.

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

22 (j) In the absence of an appeal under section 15.5 of this chapter, an
23 annexation ordinance adopted under this section takes effect not less
24 than thirty (30) days after the adoption of the ordinance and upon the
25 filing and recording of the ordinance under section 22 of this chapter.

26 SECTION 6. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2015]: **Sec. 5.5. (a) This section does not apply to an annexation
29 under section 5 or 5.1 of this chapter.**

30 **(b) This section applies only to an annexation for which an
31 annexation ordinance is adopted after June 30, 2015.**

32 **(c) After a municipality meets the requirements under section
33 2.1 and 2.2 of this chapter, and adopts an annexation ordinance
34 under section 3 or 4 of this chapter, in order for the annexation to
35 proceed, the municipality must file a written petition under
36 subsection (f), signed by owners of land in the territory proposed
37 to be annexed who are in favor of the annexation. The petition
38 must be signed by:**

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

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

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



- 1 (2) the owners of more than seventy-five percent (75%) in
2 assessed valuation of land:
- 3 (A) not exempt from property taxes under IC 6-1.1-10 or
4 any other state law; and
- 5 (B) in the territory proposed to be annexed.
- 6 (d) The petition circulated by the municipality must include on
7 each page where signatures are affixed a heading that is
8 substantially similar to the following:
- 9 "PETITION FOR ANNEXATION INTO THE (insert
10 whether city or town) OF (insert name of city or town)."
- 11 (e) A landowner may withdraw the landowner's signature from
12 the petition not more than ten (10) days after the municipality
13 adopts the annexation ordinance by providing written notice to the
14 office of the clerk of the municipality. A landowner who withdraws
15 the landowner's signature from the petition is considered not to
16 have signed the petition for purposes of subsection (h)(2).
- 17 (f) The municipality must file the petition with the circuit or
18 superior court of the county where the municipality is located not
19 later than ninety (90) days after the publication of the annexation
20 ordinance under section 7 of this chapter. The petition must be
21 accompanied by:
- 22 (1) a copy of the ordinance; and
- 23 (2) the names and addresses of all persons who meet the
24 requirements of subsection (h).
- 25 (g) On receipt of the petition, the court shall determine whether
26 the petition has the necessary signatures. In determining the total
27 number of landowners of the territory proposed to be annexed and
28 whether signers of the petition are landowners, the names
29 appearing on the tax duplicate for that territory constitute prima
30 facie evidence of ownership. Only one (1) person having an interest
31 in each single property, as evidenced by the tax duplicate, is
32 considered a landowner for purposes of this section. If the court
33 determines that the municipality's petition has a sufficient number
34 of signatures, the court shall fix a time, not later than sixty (60)
35 days after its determination, for a hearing on the petition.
- 36 (h) A person may intervene as a party at the hearing described
37 in subsection (g) if the person:
- 38 (1) is an owner of property in the territory proposed to be
39 annexed;
- 40 (2) did not sign the petition and no other owner of the
41 property signed the petition filed by the municipality; and
- 42 (3) appeared in person or submitted a remonstrance or other



1 document objecting to the annexation into the record of the
2 hearing under section 2.1 of this chapter.

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

5 SECTION 7. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2015]: Sec. 5.6. (a) This section applies only to an annexation
8 ordinance adopted after June 30, 2015.

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

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

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

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

18 a reasonable doubt must be resolved in favor of the validity of the
19 signature.

20 (d) Whenever the name of an individual, as printed or signed,
21 contains a minor variation from the name of the individual as set
22 forth in the relevant county records, the signature is considered
23 valid.

24 (e) Whenever the residence address or mailing address of an
25 individual contains a minor variation from the residence address
26 or mailing address as set forth in the relevant county records, the
27 signature is considered valid.

28 (f) If the residence address or mailing address of an individual
29 contains a substantial variation from the residence address or
30 mailing address as set forth in the relevant county records, the
31 signature is considered invalid.

32 (g) If the signature of an individual does not substantially
33 conform with the signature of the individual in relevant county
34 records, the signature is considered invalid. In determining
35 whether a signature substantially conforms with the signature in
36 the relevant county records, consideration shall be given to
37 whether that lack of conformity may reasonably be attributed to
38 the age, disability, or impairment of the individual.

39 SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,
40 SECTION 116, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) After an annexation
42 ordinance is adopted, under section 3, 4, 5, or 5.1 of this chapter, it the



1 **ordinance** must be published in the manner prescribed by IC 5-3-1.

2 **(b) This subsection applies only to an annexation for which an**
 3 **annexation ordinance is adopted before July 1, 2015.** Except as
 4 provided in subsection ~~(b)~~, ~~(c)~~, or ~~(f)~~, **(c), (d), or (e)**, in the absence of
 5 remonstrance and appeal under section 11 or 15.5 of this chapter, the
 6 ordinance takes effect at least ninety (90) days after its publication and
 7 upon the filing required by section 22(a) of this chapter.

8 **(c) The annexation ordinance takes effect as follows:**

9 **(1) This subdivision applies to an annexation under section 5**
 10 **of this chapter. Except as provided in subsection (d) or (f), in**
 11 **the absence of an appeal under section 15.5 of this chapter,**
 12 **the annexation ordinance takes effect at least ninety (90) days**
 13 **after its publication and upon filing under section 22(a) of this**
 14 **chapter.**

15 **(2) This subdivision applies to an annexation under section 5.1**
 16 **of this chapter. Except as provided in subsection (d) or (f), in**
 17 **the absence of an appeal under section 15.5 of this chapter,**
 18 **the ordinance takes effect not less than thirty (30) days after**
 19 **the adoption of the ordinance and upon the filing under**
 20 **section 22(a) of this chapter.**

21 **(3) This subdivision applies to an annexation under section 5.5**
 22 **of this chapter. Except as provided in subsection (d) or (f), if**
 23 **the court's judgment under section 12 of this chapter,**
 24 **including any appeals under section 15.5 of this chapter, is in**
 25 **favor of the annexation, the annexation is effective upon the**
 26 **filing under section 22(a) of this chapter.**

27 **(4) This subdivision applies to an annexation under section 7.1**
 28 **of this chapter for which an annexation ordinance is adopted**
 29 **after June 30, 2015. Notwithstanding subsection (d), if the**
 30 **court's judgment under section 12 of this chapter, including**
 31 **any appeals under section 15.5 of this chapter, is in favor of**
 32 **the annexation, the annexation is effective upon the filing**
 33 **under section 22(a) of this chapter.**

34 ~~(b)~~ **(d)** An ordinance described in subsection ~~(d)~~ or adopted under
 35 section 3, 4, 5, or 5.1 of this chapter **annexation** may not take effect
 36 during the year preceding a year in which a federal decennial census is
 37 conducted. An ordinance that would otherwise take effect during the
 38 year preceding a year in which a federal decennial census is conducted
 39 takes effect January 1 of the year in which a federal decennial census
 40 is conducted.

41 ~~(c)~~ **(e)** Subsections ~~(d)~~ **(f)** and ~~(e)~~ **(g)** apply to fire protection
 42 districts that are established after June 14, 1987.



1 ~~(b)~~ **(f)** Except as provided in subsection ~~(b)~~; **(d)**, whenever a
 2 municipality annexes territory, all or part of which lies within a fire
 3 protection district (IC 36-8-11), the annexation ordinance, in the
 4 absence of remonstrance and appeal under section 11 or 15.5 of this
 5 chapter **(in the case of an annexation for which an annexation**
 6 **ordinance is adopted before July 1, 2015) or in the absence of a**
 7 **hearing or an appeal under section 12 or 15.5 of this chapter (in the**
 8 **case of an annexation for which an annexation ordinance is**
 9 **adopted after June 30, 2015),** takes effect the second January 1 that
 10 follows the date the ordinance is adopted and upon the filing required
 11 by section 22(a) of this chapter. The municipality shall:

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

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

17 ~~(c)~~ **(g)** If the fire protection district from which a municipality
 18 annexes territory under subsection ~~(b)~~ **(f)** is indebted or has outstanding
 19 unpaid bonds or other obligations at the time the annexation is
 20 effective, the municipality is liable for and shall pay that indebtedness
 21 in the same ratio as the assessed valuation of the property in the
 22 annexed territory (that is part of the fire protection district) bears to the
 23 assessed valuation of all property in the fire protection district, as
 24 shown by the most recent assessment for taxation before the
 25 annexation, unless the assessed property within the municipality is
 26 already liable for the indebtedness. The annexing municipality shall
 27 pay its indebtedness under this section to the board of fire trustees. If
 28 the indebtedness consists of outstanding unpaid bonds or notes of the
 29 fire protection district, the payments to the board of fire trustees shall
 30 be made as the principal or interest on the bonds or notes becomes due.

31 ~~(f)~~ **(f)** This subsection applies to an annexation initiated by property
 32 owners under section 5.1 of this chapter in which all property owners
 33 within the area to be annexed petition the municipality to be annexed.
 34 Subject to subsections ~~(b)~~ and ~~(d)~~; and in the absence of an appeal
 35 under section 15.5 of this chapter, an annexation ordinance takes effect
 36 at least thirty (30) days after its publication and upon the filing required
 37 by section 22(a) of this chapter.

38 SECTION 9. IC 36-4-3-7.1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. **(a) This**
 40 **subsection applies only to an annexation for which an annexation**
 41 **ordinance was adopted before July 1, 2015.** Notwithstanding section
 42 ~~7(b)~~ ~~7(c)~~ of this chapter, an ordinance adopted under section 4 of this



1 chapter takes effect immediately upon the expiration of the sixty (60)
 2 day remonstrance and appeal period under section 11 or 15.5 of this
 3 chapter and after the publication, filing, and recording required by
 4 section 22(a) of this chapter if ~~all of the following conditions are met:~~
 5 **the conditions set forth in subsection (c) are met.**

6 **(b) This subsection applies to an annexation for which an**
 7 **annexation ordinance is adopted after June 30, 2015. An**
 8 **annexation that meets the conditions set forth in subsection (c)**
 9 **takes effect as set forth in section 7(c) of this chapter.**

10 **(c) This section applies to an annexation that meets all of the**
 11 **following conditions:**

12 (1) The annexed territory has no population.

13 (2) Ninety percent (90%) of the total assessed value of the land
 14 for property tax purposes has one (1) owner.

15 (3) The annexation is required to fulfill an economic development
 16 incentive package and to retain an industry through various local
 17 incentives, including urban enterprise zone benefits.

18 SECTION 10. IC 36-4-3-11 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) Except as
 20 provided in ~~section 5.1(i) of this chapter and~~ subsections (d) and (e),
 21 whenever territory is annexed by a municipality under this chapter, the
 22 annexation may be appealed by filing with the circuit or superior court
 23 of a county in which the annexed territory is located a written
 24 remonstrance signed by:

25 (1) at least sixty-five percent (65%) of the owners of land in the
 26 annexed territory; or

27 (2) the owners of more than seventy-five percent (75%) in
 28 assessed valuation of the land in the annexed territory.

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

33 (b) On receipt of the remonstrance, the court shall determine
 34 whether the remonstrance has the necessary signatures. In determining
 35 the total number of landowners of the annexed territory and whether
 36 signers of the remonstrance are landowners, the names appearing on
 37 the tax duplicate for that territory constitute prima facie evidence of
 38 ownership. Only one (1) person having an interest in each single
 39 property, as evidenced by the tax duplicate, is considered a landowner
 40 for purposes of this section.

41 (c) If the court determines that the remonstrance is sufficient, it shall
 42 fix a time, within sixty (60) days of its 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) If an annexation is initiated by property owners under section 5.1
5 of this chapter and all property owners within the area to be annexed
6 petition the municipality to be annexed, a remonstrance to the
7 annexation may not be filed under this section.

8 (e) This subsection applies if:

9 (1) the territory to be annexed consists of not more than one
10 hundred (100) parcels; and

11 (2) eighty percent (80%) of the boundary of the territory proposed
12 to be annexed is contiguous to the municipality.

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

18 **(f) This section applies only to an annexation for which the**
19 **annexation ordinance was adopted before July 1, 2015.**

20 SECTION 11. IC 36-4-3-11.5 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.5. **(a)** A landowner
22 in an unincorporated area is not required to grant a municipality a
23 waiver against remonstrance as a condition of connection to a sewer or
24 water service if all of the following conditions apply:

25 (1) The landowner is required to connect to the sewer or water
26 service because a person other than the landowner has polluted or
27 contaminated the area.

28 (2) A person other than the landowner or the municipality has
29 paid the cost of connection to the service.

30 **(b) Notwithstanding any other law, a waiver of the right to**
31 **remonstrate is effective and binding on a landowner or a successor**
32 **in title only with regard to an annexation for which the annexation**
33 **ordinance was adopted before July 1, 2015.**

34 SECTION 12. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
35 SECTION 117, IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) The circuit or superior court
37 shall:

38 (1) on the date fixed under section 11 **(in the case of an**
39 **annexation for which an annexation ordinance is adopted**
40 **before July 1, 2015) or 5.5** of this chapter, hear and determine
41 the remonstrance **(in the case of an annexation for which an**
42 **annexation ordinance is adopted before July 1, 2015) or**



1 **petition** without a jury; and

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

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

13 SECTION 13. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,
14 SECTION 188, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Except as provided in
16 ~~subsections (e) and (g)~~, **subsection (e)**, at the hearing under section 12
17 of this chapter, the court shall order a proposed annexation to take
18 place if the following requirements are met:

19 (1) The requirements of either subsection (b) or (c).

20 (2) The requirements of subsection (d).

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

23 (1) That the territory sought to be annexed is contiguous to the
24 municipality.

25 (2) One (1) of the following:

26 (A) The resident population density of the territory sought to
27 be annexed is at least three (3) persons per acre.

28 (B) Sixty percent (60%) of the territory is subdivided.

29 (C) The territory is zoned for commercial, business, or
30 industrial uses.

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

33 (1) That the territory sought to be annexed is contiguous to the
34 municipality as required by section 1.5 of this chapter, except that
35 at least one-fourth (1/4), instead of one-eighth (1/8), of the
36 aggregate external boundaries of the territory sought to be
37 annexed must coincide with the boundaries of the municipality.

38 (2) That the territory sought to be annexed is needed and can be
39 used by the municipality for its development in the reasonably
40 near future.

41 (d) The requirements of this subsection are met if the evidence
42 establishes that the municipality has developed and adopted a written



1 fiscal plan and has established a definite policy, by resolution of the
 2 legislative body as set forth in section 3.1 of this chapter. The fiscal
 3 plan must show the following:

4 (1) The cost estimates of planned services to be furnished to the
 5 territory to be annexed. The plan must present itemized estimated
 6 costs for each municipal department or agency.

7 (2) The method or methods of financing the planned services. The
 8 plan must explain how specific and detailed expenses will be
 9 funded and must indicate the taxes, grants, and other funding to
 10 be used.

11 (3) The plan for the organization and extension of services. The
 12 plan must detail the specific services that will be provided and the
 13 dates the services will begin.

14 (4) That planned services of a noncapital nature, including police
 15 protection, fire protection, street and road maintenance, and other
 16 noncapital services normally provided within the corporate
 17 boundaries, will be provided to the annexed territory within one
 18 (1) year after the effective date of annexation and that they will be
 19 provided in a manner equivalent in standard and scope to those
 20 noncapital services provided to areas within the corporate
 21 boundaries regardless of similar topography, patterns of land use,
 22 and population density.

23 (5) That services of a capital improvement nature, including street
 24 construction, street lighting, sewer facilities, water facilities, and
 25 stormwater drainage facilities, will be provided to the annexed
 26 territory within three (3) years after the effective date of the
 27 annexation in the same manner as those services are provided to
 28 areas within the corporate boundaries, regardless of similar
 29 topography, patterns of land use, and population density, and in
 30 a manner consistent with federal, state, and local laws,
 31 procedures, and planning criteria.

32 (e) **This subsection applies only to an annexation for which an**
 33 **annexation ordinance is adopted before July 1, 2015.** At the hearing
 34 under section 12 of this chapter, the court shall do the following:

35 (1) Consider evidence on the conditions listed in subdivision (2).

36 (2) Order a proposed annexation not to take place if the court
 37 finds that all of the conditions set forth in clauses (A) through (D)
 38 and, if applicable, clause (E) exist in the territory proposed to be
 39 annexed:

40 (A) The following services are adequately furnished by a
 41 provider other than the municipality seeking the annexation:

42 (i) Police and fire protection.



1 (ii) Street and road maintenance.
 2 (B) The annexation will have a significant financial impact on
 3 the residents or owners of land.
 4 (C) The annexation is not in the best interests of the owners of
 5 land in the territory proposed to be annexed as set forth in
 6 subsection (f).
 7 (D) One (1) of the following opposes the annexation:
 8 (i) At least sixty-five percent (65%) of the owners of land in
 9 the territory proposed to be annexed.
 10 (ii) The owners of more than seventy-five percent (75%) in
 11 assessed valuation of the land in the territory proposed to be
 12 annexed.
 13 Evidence of opposition may be expressed by any owner of land
 14 in the territory proposed to be annexed.
 15 (E) This clause applies only to an annexation in which eighty
 16 percent (80%) of the boundary of the territory proposed to be
 17 annexed is contiguous to the municipality and the territory
 18 consists of not more than one hundred (100) parcels. At least
 19 seventy-five percent (75%) of the owners of land in the
 20 territory proposed to be annexed oppose the annexation as
 21 determined under section 11(b) of this chapter.
 22 **(f) This subsection applies only to an annexation for which an**
 23 **annexation ordinance is adopted before July 1, 2015.** The
 24 municipality under subsection (e)(2)(C) bears the burden of proving
 25 that the annexation is in the best interests of the owners of land in the
 26 territory proposed to be annexed. In determining this issue, the court
 27 may consider whether the municipality has extended sewer or water
 28 services to the entire territory to be annexed:
 29 (1) within the three (3) years preceding the date of the
 30 introduction of the annexation ordinance; or
 31 (2) under a contract in lieu of annexation entered into under
 32 IC 36-4-3-21.
 33 The court may not consider the provision of water services as a result
 34 of an order by the Indiana utility regulatory commission to constitute
 35 the provision of water services to the territory to be annexed.
 36 ~~(g) This subsection applies only to cities located in a county having~~
 37 ~~a population of more than two hundred fifty thousand (250,000) but~~
 38 ~~less than two hundred seventy thousand (270,000). However, this~~
 39 ~~subsection does not apply if on April 1, 1993, the entire boundary of~~
 40 ~~the territory that is proposed to be annexed was contiguous to territory~~
 41 ~~that was within the boundaries of one (1) or more municipalities. At the~~
 42 ~~hearing under section 12 of this chapter, the court shall do the~~



- 1 following:
- 2 (1) Consider evidence on the conditions listed in subdivision (2):
- 3 (2) Order a proposed annexation not to take place if the court
- 4 finds that all of the following conditions exist in the territory
- 5 proposed to be annexed:
- 6 (A) The following services are adequately furnished by a
- 7 provider other than the municipality seeking the annexation:
- 8 (i) Police and fire protection:
- 9 (ii) Street and road maintenance:
- 10 (B) The annexation will have a significant financial impact on
- 11 the residents or owners of land:
- 12 (C) One (1) of the following opposes the annexation:
- 13 (i) A majority of the owners of land in the territory proposed
- 14 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 (h) (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) This subsection applies only to an annexation for which an**
- 29 **annexation ordinance is adopted after June 30, 2015. A**
- 30 **municipality may not amend the fiscal plan after the date that the**
- 31 **municipality files the annexation petition with the court under**
- 32 **section 5.5 of this chapter, unless amendment of the fiscal plan is**
- 33 **consented to by the individuals signing the petition.**
- 34 SECTION 14. IC 36-4-3-14 IS AMENDED TO READ AS
- 35 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. In a hearing under
- 36 section 12 of this chapter, the laws providing for change of venue from
- 37 the county do not apply, but changes of venue from the judge may be
- 38 had as in other cases. Costs follow judgment. Pending the
- 39 remonstrance, and during the time within which the remonstrance may
- 40 be taken, **entry of a final unappealable judgment**, the territory sought
- 41 to be annexed is not considered a part of the municipality.
- 42 SECTION 15. IC 36-4-3-15 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) The court's
 2 judgment under section 12 or 15.5 of this chapter must specify the
 3 annexation ordinance. ~~on which the remonstrance is based~~. The clerk
 4 of the court shall deliver a certified copy of the **final unappealable**
 5 judgment to the clerk of the municipality. The clerk of the municipality
 6 shall:

- 7 (1) record the judgment in the clerk's ordinance record; and
 8 (2) make a cross-reference to the record of the judgment on the
 9 margin of the record of the annexation ordinance.

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

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

18 (c) This subsection applies if a municipality repeals the annexation
 19 ordinance:

- 20 (1) less than sixty-one (61) days after the publication of the
 21 ordinance under section 7(a) of this chapter; and
 22 (2) before the hearing commences ~~on the remonstrance~~ under
 23 section 11(c) **(in the case of an annexation for which an**
 24 **annexation ordinance is adopted before July 1, 2015) or 12** of
 25 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) **(in the case of an annexation for which an**
 38 **annexation ordinance is adopted before July 1, 2015) or 12** of
 39 this chapter.

40 A municipality may not make further attempts to annex the territory or
 41 any part of the territory during the twenty-four (24) months after the
 42 date the municipality repeals the annexation ordinance. This subsection



1 does not prohibit an annexation of the territory or part of the territory
2 that is petitioned for under section 5 or 5.1 of this chapter.

3 (e) This subsection applies if a municipality repeals the annexation
4 ordinance:

5 (1) either:

6 (A) at least one hundred twenty-one (121) days after
7 publication of the ordinance under section 7(a) of this chapter
8 but before the hearing commences ~~on the remonstrance~~ under
9 section 11(c) **(in the case of an annexation for which an**
10 **annexation ordinance is adopted before July 1, 2015) or 12**
11 of this chapter; or

12 (B) after the hearing commences ~~on the remonstrance~~ as set
13 forth in section 11(c) **(in the case of an annexation for which**
14 **an annexation ordinance is adopted before July 1, 2015) or**
15 **12** of this chapter; and

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

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

23 (f) If a judgment under section 12 or 15.5 of this chapter orders the
24 annexation to take place, the annexation is effective when the clerk of
25 the municipality complies with the filing requirement of section 22(a)
26 of this chapter.

27 SECTION 16. IC 36-4-3-15.3 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15.3. (a) As used in this
29 section, "prohibition against annexation" means that a municipality
30 may not make further attempts to annex certain territory or any part of
31 that territory.

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

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

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

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

42 the parties may mutually agree to a prohibition against annexation of



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

12 **(d) A settlement agreement executed after June 30, 2015, is void.**

13 SECTION 17. IC 36-4-3-22 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The clerk of the
 15 municipality shall do the following:

16 (1) File each annexation ordinance against which a remonstrance
 17 **(in the case of an annexation for which an annexation**
 18 **ordinance is adopted before July 1, 2015)** or an appeal has not
 19 been filed during the period permitted under this chapter or the
 20 certified copy of a **final unappealable** judgment ordering an
 21 annexation to take place with each of the following:

22 (A) The county auditor of each county in which the annexed
 23 territory is located.

24 (B) The circuit court clerk of each county in which the
 25 annexed territory is located.

26 (C) If a board of registration exists, the registration board of
 27 each county in which the annexed territory is located.

28 (D) The office of the secretary of state.

29 (E) The office of census data established by IC 2-5-1.1-12.2.

30 (2) Record each annexation ordinance adopted under this chapter
 31 in the office of the county recorder of each county in which the
 32 annexed territory is located.

33 (b) The copy must be filed and recorded no later than ninety (90)
 34 days after:

35 (1) the expiration of the period permitted for a remonstrance **(in**
 36 **the case of an annexation for which an annexation ordinance**
 37 **is adopted before July 1, 2015)** or an appeal; or

38 (2) the delivery of a certified order under section 15 of this
 39 chapter.

40 (c) Failure to record the annexation ordinance as provided in
 41 subsection (a)(2) does not invalidate the ordinance.

42 (d) The county auditor shall forward a copy of any annexation



- 1 ordinance filed under this section to the following:
- 2 (1) The county highway department of each county in which the
- 3 lots or lands affected are located.
- 4 (2) The county surveyor of each county in which the lots or lands
- 5 affected are located.
- 6 (3) Each plan commission, if any, that lost or gained jurisdiction
- 7 over the annexed territory.
- 8 (4) The sheriff of each county in which the lots or lands affected
- 9 are located.
- 10 (5) The township trustee of each township that lost or gained
- 11 jurisdiction over the annexed territory.
- 12 (6) The office of the secretary of state.
- 13 (7) The office of census data established by IC 2-5-1.1-12.2.
- 14 (e) The county auditor may require the clerk of the municipality to
- 15 furnish an adequate number of copies of the annexation ordinance or
- 16 may charge the clerk a fee for photoreproduction of the ordinance. The
- 17 county auditor shall notify the office of the secretary of state and the
- 18 office of census data established by IC 2-5-1.1-12.2 of the date that the
- 19 annexation ordinance is effective under this chapter.
- 20 (f) The county auditor or county surveyor shall, upon determining
- 21 that an annexation ordinance has become effective under this chapter,
- 22 indicate the annexation upon the property taxation records maintained
- 23 in the office of the auditor or the office of the county surveyor.
- 24 SECTION 18. IC 36-9-22-2, AS AMENDED BY P.L.243-2013,
- 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to
- 27 fix the terms of a contract under this section applies to contracts for the
- 28 installation of sewage works that have not been finally approved or
- 29 accepted for full maintenance and operation by the municipality on July
- 30 1, 1979.
- 31 (b) The works board of a municipality may contract with owners of
- 32 real property for the construction of sewage works within the
- 33 municipality or within four (4) miles outside its corporate boundaries
- 34 in order to provide service for the area in which the real property of the
- 35 owners is located. The contract must provide, for a period of not to
- 36 exceed fifteen (15) years, for the payment to the owners and their
- 37 assigns by any owner of real property who:
- 38 (1) did not contribute to the original cost of the sewage works;
- 39 and
- 40 (2) subsequently taps into, uses, or deposits sewage or storm
- 41 waters in the sewage works or any lateral sewers connected to
- 42 them;



1 of a fair pro rata share of the cost of the construction of the sewage
 2 works, subject to the rules of the board and notwithstanding any other
 3 law relating to the functions of local governmental entities. However,
 4 the contract does not apply to any owner of real property who is not a
 5 party to the contract unless the contract or (after June 30, 2013) a
 6 signed memorandum of the contract has been recorded in the office of
 7 the recorder of the county in which the real property of the owner is
 8 located before the owner taps into or connects to the sewers and
 9 facilities. The board may provide that the fair pro rata share of the cost
 10 of construction includes interest at a rate not exceeding the amount of
 11 interest allowed on judgments, and the interest shall be computed from
 12 the date the sewage works are approved until the date payment is made
 13 to the municipality.

14 (c) **Before July 1, 2015**, the contract must include, as part of the
 15 consideration running to the municipality, the release of the right of the
 16 parties to the contract and their successors in title to remonstrate
 17 against pending or future annexations by the municipality of the area
 18 served by the sewage works. Any person tapping into or connecting to
 19 the sewage works contracted for is considered to waive the person's
 20 rights to remonstrate against the annexation of the area served by the
 21 sewage works, **if the annexation ordinance is adopted before July 1,**
 22 **2015.**

23 (d) This subsection does not affect any rights or liabilities accrued,
 24 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 25 proceedings continue and shall be imposed and enforced under prior
 26 law as if this subsection had not been enacted. **Except as provided in**
 27 **subsection (g)**, for contracts executed after June 30, 2013, the release
 28 of the right to remonstrate is binding on a successor in title to a party
 29 to the contract only if the successor in title:

- 30 (1) has actual notice of the release; or
- 31 (2) has constructive notice of the release because the contract, or
- 32 a signed memorandum of the contract stating the release, has been
- 33 recorded in the chain of title of the property.

34 (e) Subsection (c) does not apply to a landowner if all of the
 35 following conditions apply:

- 36 (1) The landowner is required to connect to the sewage works
- 37 because a person other than the landowner has polluted or
- 38 contaminated the area.
- 39 (2) The costs of extension of or connection to the sewage works
- 40 are paid by a person other than the landowner or the municipality.

41 (f) Subsection (c) does not apply to a landowner who taps into,
 42 connects to, or is required to tap into or connect to the sewage works



1 of a municipality only because the municipality provides wholesale
2 sewage service (as defined in IC 8-1-2-61.7) to another municipality
3 that provides sewage service to the landowner.

4 **(g) 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 July 1,**
8 **2015.**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 330, 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 1, line 1, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 1, line 2, after "2015]" delete "." and insert ":".

Page 1, line 2, reset in roman "Sec. 2. (a) The persons involved shall negotiate the terms for".

Page 1, reset in roman lines 3 through 14.

Page 1, after line 14, begin a new paragraph and insert:

"(d) Notwithstanding any other law, a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 2, line 17, delete "'economic" and insert "'infrastructure" means the capital improvements that comprise:

- (1) a sanitary sewer system or wastewater treatment facility;
- (2) a building and appurtenances;
- (3) a park or recreational facility;
- (4) a road, street, highway, or bridge; or
- (5) a water treatment, water storage, or water distribution facility.

(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. If a municipality annexes territory that contains infrastructure constructed or improved by the county, the annexing municipality shall assume and is responsible for paying all indebtedness of the county incurred in constructing or improving the infrastructure that is outstanding on the date the annexation is effective. The rights of a bondholder with respect to the indebtedness remains the same, although the powers, duties, agreements, and liabilities of the county have been transferred to the annexing municipality, and the annexing municipality is considered to have assumed all those powers, duties, agreements, and liabilities."

Page 2, delete lines 18 through 42.

Delete pages 3 through 5, begin a new paragraph and insert:

"SECTION 4. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) A municipality may not promote or collect signatures on an annexation petition that is filed under this section after June 30, 2015.



~~(a)~~ **(b)** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of:

(i) the owners of land in the territory sought to be annexed, in the case of a petition filed before July 1, 2015; or

(ii) in the territory sought to be annexed that is not exempt from property taxes under IC 6-1.1-10 or any other state law, in the case of a petition filed after June 30, 2015; or

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

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

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

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

~~(c)~~ **(d)** Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection ~~(a)~~, **(b)**, the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

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

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors,



the court shall deny the petition and dismiss the proceeding.

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

SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section applies to an annexation in which~~ Owners of land located outside but contiguous to a municipality **may** file a petition with the legislative body of the municipality:

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

(2) signed by:

(A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and

(B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land that is:

(i) located within the territory that is proposed to be annexed; and

(ii) not exempt from property taxes under IC 6-1.1-10 or any other state law.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

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

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

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier



than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

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

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

Page 6, delete lines 5 through 6, begin a new paragraph and insert:

"(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015."

Page 6, line 18, delete "sixty" and insert "seventy-five".

Page 6, line 18, delete "(60%)" and insert "(75%)".

Page 7, line 8, delete "is sufficient," and insert "**has a sufficient number of signatures,**".

Page 7, delete lines 22 through 42.

Delete page 8.

Page 9, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 7. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.6. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.**

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

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



- (1) the validity of a signature is uncertain; and
- (2) this section does not establish a standard to be applied in the case;

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

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

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

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

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

SECTION 7. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) After an **annexation ordinance** is adopted, ~~under section 3, 4, 5, or 5.1 of this chapter, it the ordinance~~ must be published in the manner prescribed by IC 5-3-1.

(b) **This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** Except as provided in subsection ~~(b); (c); or (f);~~ **(c), (d), or (e)**, in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(c) **The annexation ordinance takes effect as follows:**

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



(2) This subdivision applies to an annexation under section 5.1 of this chapter. Except as provided in subsection (d) or (f), in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.

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

(4) This subdivision applies to an annexation under section 7.1 of this chapter for which an annexation ordinance is adopted after June 30, 2015. Notwithstanding subsection (d), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

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

~~(e)~~ **(e)** Subsections ~~(d)~~ **(f)** and ~~(e)~~ **(g)** apply to fire protection districts that are established after June 14, 1987.

~~(d)~~ **(f)** Except as provided in subsection ~~(b)~~; **(d)**, whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance, in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or in the absence of a hearing or an appeal under section 12 or 15.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after June 30, 2015)**, takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

- (1) provide fire protection to that territory beginning **on** the date the ordinance is effective; and
- (2) send written notice to the fire protection district of the date the



municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

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

~~(f)~~ This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 8. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. **(a) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015.** Notwithstanding section ~~7(b)~~ **7(c)** of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if ~~all of the following conditions are met:~~ **the conditions set forth in subsection (c) are met.**

(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. An annexation that meets the conditions set forth in subsection (c) takes effect as set forth in section 7(c) of this chapter.

(c) This section applies to an annexation that meets all of the following conditions:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.



(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits."

Page 9, line 29, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 9, line 30, after "2015]" delete "." and insert ":".

Page 9, line 30, reset in roman "Sec. 11. (a) Except as provided in".

Page 9, line 31, reset in roman "subsections (d) and (e), whenever territory is annexed by a".

Page 9, reset in roman lines 32 through 42.

Page 10, reset in roman lines 1 through 27.

Page 10, between lines 27 and 28, begin a new paragraph and insert:

"(f) This section applies only to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 10, line 28, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 10, line 29, after "2015]" delete "." and insert ":".

Page 10, line 29, reset in roman "Sec. 11.5."

Page 10, line 29, after "11.5." insert "(a)".

Page 10, line 29, reset in roman "A landowner in an unincorporated area is not".

Page 10, reset in roman lines 30 through 37.

Page 10, between lines 37 and 38, begin a new paragraph and insert:

"(b) Notwithstanding any other law, a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 10, line 42, reset in roman "11".

Page 10, line 42, after "11" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 11, line 1, reset in roman "remonstrance".

Page 11, line 1, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 11, line 15, reset in roman "Except as provided in".

Page 11, line 16, delete "At" and insert **"subsection (e), at"**.

Page 11, line 32, delete "one (1) of".

Page 11, line 33, delete ":".

Page 11, line 34, delete "(A)".

Page 11, run in lines 33 through 34.

Page 11, line 38, delete "; and" and insert ".".



Page 11, line 39, beginning with "(2)" begin a new line block indented.

Page 11, line 39, reset in roman "(2) That the territory sought to be annexed".

Page 11, line 39, delete "(B)".

Page 11, delete line 42.

Page 12, delete lines 1 through 2.

Page 12, line 36, reset in roman "(e)".

Page 12, line 36, after "(e)" insert "**This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.**".

Page 12, line 36, reset in roman "At the hearing under section 12 of this chapter, the court shall do".

Page 12, reset in roman lines 37 through 42.

Page 13, reset in roman lines 1 through 24.

Page 13, line 25, reset in roman "(f)".

Page 13, line 25, after "(f)" insert "**This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.**".

Page 13, line 25, reset in roman "The municipality under subsection (c)(2)(C) bears the burden of".

Page 13, reset in roman lines 26 through 36.

Page 14, line 21, delete "(e)" and insert "(g)".

Page 14, line 29, delete "(f)" and insert "**(h) This subsection applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015.**".

Page 15, line 22, reset in roman "11(c)".

Page 15, line 22, after "11(c)" insert "**(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or**".

Page 15, line 34, reset in roman "11(c)".

Page 15, line 34, after "11(c)" insert "**(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or**".

Page 16, line 4, reset in roman "11(c)".

Page 16, line 4, after "11(c)" insert "**(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or**".

Page 16, line 6, reset in roman "11(c)".

Page 16, line 6, after "11(c)" insert "**(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or**".



Page 16, line 18, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 16, line 19, after "2015]" delete "." and insert ":".

Page 16, line 19, reset in roman "Sec. 15.3. (a) As used in this section, "prohibition against".

Page 16, reset in roman lines 20 through 42.

Page 17, reset in roman line 1.

Page 17, between lines 1 and 2, begin a new paragraph and insert: **"(d) A settlement agreement executed after June 30, 2015, is void."**

Page 17, line 5, reset in roman "a remonstrance".

Page 17, line 5, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)"**.

Page 17, line 6, reset in roman "or".

Page 17, line 23, reset in roman "a remonstrance".

Page 17, line 23, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)"**.

Page 17, line 23, reset in roman "or".

Page 19, line 1, reset in roman "(c)".

Page 19, line 1, delete "The" and insert **"Before July 1, 2015, the"**.

Page 19, line 1, reset in roman "contract must include, as part of the consideration running".

Page 19, reset in roman lines 2 through 6.

Page 19, line 7, reset in roman "against the annexation of the area served by the sewage".

Page 19, line 7, delete "works." and insert **"works, if the annexation ordinance is adopted before July 1, 2015."**

Page 19, reset in roman lines 8 through 10.

Page 19, line 11, reset in roman "law as if this subsection had not been enacted."

Page 19, line 11, delete "For" and insert **"Except as provided in subsection (g), for"**.

Page 19, line 11, reset in roman "contracts executed".

Page 19, reset in roman lines 12 through 30.

Page 19, after line 30, begin a new paragraph and insert:

"(g) Notwithstanding any other law, a release of the right to remonstrate is effective and binding on a landowner or a successor



in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 330 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 2.

