

First Regular Session of the 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 ENROLLED ACT No. 330

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 8-1-34-23, AS AMENDED BY P.L.6-2012, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 23. (a) Except as provided in subsection (b), the holder of a certificate under this chapter shall, at the end of each calendar quarter, determine under subsections (c) and (d) the gross revenue received during that quarter from the holder's provision of video service in each unit included in the holder's service area under the certificate.

(b) This subsection applies to a holder or other provider providing video service in a unit in which a provider of video service is required on June 30, 2006, to pay a franchise fee based on a percentage of gross revenues. The holder's or provider's gross revenue shall be determined as follows:

(1) If only one (1) local franchise is in effect on June 30, 2006, the holder or provider shall determine gross revenue as the term is defined in the local franchise in effect on June 30, 2006.

(2) If:

(A) more than one (1) local franchise is in effect on June 30, 2006; and

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(B) the holder or provider is subject to a local franchise in the unit on June 30, 2006;

the holder or provider shall determine gross revenue as the term is defined in the local franchise to which the holder or provider is subject on June 30, 2006.

(3) If:

(A) more than one (1) local franchise is in effect on June 30, 2006; and

(B) the holder is not subject to a local franchise in the unit on June 30, 2006;

the holder shall determine gross revenue as the term is defined in the local franchise in effect on June 30, 2006, that is most favorable to the unit.

(c) This subsection does not apply to a holder that is required to determine gross revenue under subsection (b). The holder shall include the following in determining the gross revenue received during the quarter with respect to a particular unit:

(1) Fees and charges charged to subscribers for video service provided by the holder. Fees and charges under this subdivision include the following:

(A) Recurring monthly charges for video service.

(B) Event based charges for video service, including pay per view and video on demand charges.

(C) Charges for the rental of set top boxes and other equipment.

(D) Service charges related to the provision of video service, including activation, installation, repair, and maintenance charges.

(E) Administrative charges related to the provision of video service, including service order and service termination charges.

(2) Revenue received by an affiliate of the holder from the affiliate's provision of video service, to the extent that treating the revenue as revenue of the affiliate, instead of revenue of the holder, would have the effect of evading the payment of fees that would otherwise be paid to the unit. However, revenue of an affiliate may not be considered revenue of the holder if the revenue is otherwise subject to fees to be paid to the unit.

(d) This subsection does not apply to a holder that is required to determine gross revenue under subsection (b). The holder shall not include the following in determining the gross revenue received during the quarter with respect to a particular unit:



- (1) Revenue not actually received, regardless of whether it is billed. Revenue described in this subdivision includes bad debt.
- (2) Revenue received by an affiliate or any other person in exchange for supplying goods and services used by the holder to provide video service under the holder's certificate.
- (3) Refunds, rebates, or discounts made to subscribers, advertisers, the unit, or other providers leasing access to the holder's facilities.
- (4) Revenue from providing service other than video service, including revenue from providing:
  - (A) telecommunications service (as defined in 47 U.S.C. 153(46));
  - (B) information service (as defined in 47 U.S.C. 153(20)), other than video service; or
  - (C) any other service not classified as cable service or video programming by the Federal Communications Commission.
- (5) Any fee imposed on the holder under this chapter that is passed through to and paid by subscribers, including the franchise fee:
  - (A) imposed under section 24 of this chapter for the quarter immediately preceding the quarter for which gross revenue is being computed; and
  - (B) passed through to and paid by subscribers during the quarter for which gross revenue is being computed.
- (6) Revenue from the sale of video service for resale in which the purchaser collects a franchise fee under:
  - (A) this chapter; or
  - (B) a local franchise agreement in effect on July 1, 2006;
 from the purchaser's customers. This subdivision does not limit the authority of a unit, or the commission on behalf of a unit, to impose a tax, fee, or other assessment upon the purchaser under 47 U.S.C. 542(h).
- (7) Any tax of general applicability:
  - (A) imposed on the holder or on subscribers by a federal, state, or local governmental entity; and
  - (B) required to be collected by the holder and remitted to the taxing entity;
 including the state gross retail and use taxes (IC 6-2.5) and the utility receipts tax (IC 6-2.3).
- (8) Any forgone revenue from providing free or reduced cost cable video service to any person, including:
  - (A) employees of the holder;



(B) the unit; or

(C) public institutions, public schools, or other governmental entities, as required or permitted by this chapter or by federal law.

However, any revenue that the holder chooses to forgo in exchange for goods or services through a trade or barter arrangement shall be included in gross revenue.

(9) Revenue from the sale of:

(A) capital assets; or

(B) surplus equipment that is not used by the purchaser to receive video service from the holder.

(10) Reimbursements that:

(A) are made by programmers to the holder for marketing costs incurred by the holder for the introduction of new programming; and

(B) exceed the actual costs incurred by the holder.

(11) Late payment fees collected from customers.

(12) Charges, other than those described in subsection (c)(1), that are aggregated or bundled with charges described in subsection (c)(1) on a customer's bill, if the holder can reasonably identify the charges on the books and records by the holder in the regular course of business.

(e) If, under the terms of the holder's certificate, the holder provides video service to any unincorporated area in Indiana, the holder shall calculate the holder's gross income received from each unincorporated area served in accordance with:

(1) subsection (b); or

(2) subsections (c) and (d);

whichever is applicable.

(f) If a unit served by the holder under a certificate annexes any territory after the certificate is issued or renewed under this chapter, the holder shall:

(1) include in the calculation of gross revenue for the annexing unit any revenue generated by the holder from providing video service to the annexed territory; and

(2) subtract from the calculation of gross revenue for any unit or unincorporated area:

(A) of which the annexed territory was formerly a part; and

(B) served by the holder before the effective date of the annexation;

the amount of gross revenue determined under subdivision (1); beginning with the calculation of gross revenue for the calendar quarter



in which the annexation becomes effective. The holder shall notify the commission of the new boundaries of the affected service areas as required under section 20(a)(7) of this chapter.

**(g) This subsection applies to a unit that:**

- (1) annexes territory after December 31, 2015; and**
- (2) is served on the date of the annexation by the holder of a certificate that is issued or renewed under this chapter before the date of the annexation.**

**The unit shall provide the holder a list of all addresses located within the annexed territory not more than thirty (30) days after the date of the annexation. If the holder is required to pay the franchise fee imposed and calculated under this section, the holder is not required to pay the franchise fee with respect to addresses provided under this subsection until ninety (90) days after the unit provides the holder with the addresses under this subsection.**

SECTION 2. IC 13-18-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) If service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

- (1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and
- (2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

- (1) shall be noted on the deed of each property affected and recorded as provided by law; and
- (2) is considered a covenant running with the land.

**(d) Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.**

**(e) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.**

SECTION 3. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. **(a)** For purposes



of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous a strip of land less than one hundred fifty (150) feet wide ~~which~~ **that** connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

**(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A public highway or the rights-of-way of a public highway are contiguous to:**

- (1) the municipality; or**
- (2) property in the unincorporated area adjacent to the public highway or rights-of-way of a public highway;**

**if the public highway or the rights-of-way of a public highway are contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.**

**(c) A public highway or the rights-of-way of a public highway are not contiguous unless one (1) of the following requirements is met:**

- (1) The municipality obtains the written consent of the owners of all property:**
  - (A) adjacent to the entire length of the part of the public highway and rights-of-way of the public highway that is being annexed; and**
  - (B) not already within the corporate boundaries of the municipality.**

**A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.**

**(2) All property adjacent to the entire length of the part of the public highway or rights-of-way of the public highway being annexed is already within the corporate boundaries of the municipality.**

**(3) All property adjacent to the entire length of the part of the public highway or rights-of-way of the public highway being annexed is part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.**

**A municipality may not annex a public highway or the rights-of-way of a public highway or annex territory adjacent to**



the public highway or rights-of-way of a public highway unless the requirements of this section are met.

SECTION 4. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.**

**(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. The outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the following information:**

- (1) Maps showing the proposed boundaries of the annexation territory.**
- (2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.**
- (3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.**

**(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by first class mail, certified mail with return receipt requested, or any other means of delivery that includes a return receipt and must include the following information:**

- (1) The notice must inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.**
- (2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.**
- (3) The date, time, and location of the meetings to be conducted under the outreach program.**
- (d) The notice shall be sent to the address of the landowner as**



listed on the tax duplicate. If the municipality provides evidence that the notice was sent by:

- (1) certified mail, with return receipt requested or any other means of delivery that includes a return receipt; and
- (2) in accordance with this section;

it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.

(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.

SECTION 5. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), ~~or 4(h) or 4.1~~ of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by:

- (1) certified mail, ~~return receipt requested; or~~
- (2) ~~any other means of delivery that includes a return receipt;~~

at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.





(5) A detailed summary of the fiscal plan, described in section 13 of this chapter, **if applicable.**

(6) The location where the public may inspect and copy the fiscal plan, **if applicable.**

(7) A statement that the municipality will provide a copy of the fiscal plan, **if applicable,** after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by:

(1) certified mail, **return receipt requested; or**

(2) **any other means of delivery that includes a return receipt;** not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

SECTION 6. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.1. (a) A municipality may annex territory under this section **or (after June 30, 2015) this chapter** only if the territory is contiguous to the municipality.

(b) **This subsection applies only to an annexation ordinance adopted before July 1, 2015.** Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural.

(c) **This subsection applies only to an annexation ordinance adopted after June 30, 2015. Real property annexed under this chapter:**

(1) is exempt; and

(2) remains exempt;

**from all property tax liability under IC 6-1.1 for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the**



**department of local government finance.**

(c) (d) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(d) (e) Territory annexed under this section **or (after June 30, 2015) this chapter** may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section **or (after June 30, 2015) this chapter** shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

SECTION 7. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.2. (a) As used in this section, "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:**

- (1) only to an annexation for which an annexation ordinance is adopted after June 30, 2015; and
- (2) if there is debt, evidenced by bonds, leases, or other obligations, that is outstanding on infrastructure on the date that the annexation becomes effective.

**(c) This subsection applies if:**

- (1) the municipality takes ownership of infrastructure located within the annexation territory, or part of an item of infrastructure, owned by the county; and
- (2) the outstanding debt is payable from property taxes or from revenue bonds or obligations.

The annexing municipality is liable to the county for reimbursements only if the municipality assumes ownership or partial ownership of the infrastructure. If the municipality assumes ownership or partial ownership of the infrastructure, the municipality shall reimburse the county for the appropriate share of the remaining debt that is payable by the county from property taxes or revenues. The county and the annexing municipality shall enter into an interlocal agreement under IC 36-1-7 regarding the allocation of the debt and reimbursement terms.



**(d) This subsection applies if a local income tax under IC 6-3.5 has been pledged by the county to pay outstanding debt on infrastructure located within the county. To offset the change in local income tax distributions that will occur after the annexation, the annexing municipality is liable to the county for reimbursements in the amount that represents part of the outstanding debt on the infrastructure until the debt is fully paid. The amount that the municipality is required to reimburse the county is the percent of the total county income tax distribution that is indebted, multiplied by the amount of local income tax revenue for the distribution year that is shifted from the county to the municipality as a result of the annexation.**

**(e) Reimbursements received by a county under this section shall be deposited in the appropriate debt service fund.**

SECTION 8. IC 36-4-3-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.3. (a) This section applies only to real property that is owned by a county redevelopment commission established under IC 36-7.**

**(b) A municipality may not annex real property owned by a county redevelopment commission without obtaining the consent of the county executive.**

SECTION 9. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5. (a) This subsection applies only to a petition requesting annexation that is filed before July 1, 2015.** 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 the owners of land in the territory sought to be annexed; 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) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. 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 that meets the following requirements:**



- (1) The petition is signed by at least one (1) of the following:**
- (A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:**
- (i) be counted in calculating the total number of owners of land in the annexation territory; or**
  - (ii) have the owner's signature counted;**
- with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.**
- (B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.**

- (2) The petition requests 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)."

~~(e)~~ **(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), 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 10. 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 within the territory that is proposed to be annexed.**

(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.

SECTION 11. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the ~~sixty (60) day~~ **sixty (60) day** remonstrance and appeal period under section 11, **11.1**, 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:

- (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.

SECTION 12. IC 36-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) **This subsection**



**applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015.** Except as provided in section 5.1(i) of this chapter and subsections ~~(d) and (e)~~, **(e) and (f)**, whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

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

**(b) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015.** On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

**(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015.** If the court determines that the remonstrance is sufficient, ~~it~~ **the court** shall fix a time, within sixty (60) days ~~of its~~ **after the court's** determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

**(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the requirements of section 11.3(c) or (after December 31, 2016) section 11.4 of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:**

- (1) the signed remonstrances filed with the county auditor;**
- (2) the county auditor's certification under section 11.2(g) of this chapter;**
- (3) the annexation ordinance; and**



**(4) a statement of the reason why the annexation should not take place.**

**The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section 11.2(g) of this chapter. After a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.**

**(d) (e)** If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

**(e) (f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

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

SECTION 13. IC 36-4-3-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.**

**(b) After a municipality adopts an annexation ordinance in accordance with all applicable notice and hearing requirements under this chapter, the annexation may not proceed unless the annexing municipality completes the procedures set forth in this section.**

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

- (1) publication in accordance with IC 5-3-1; and**
- (2) first class mail or certified mail with return receipt requested, or any other means of delivery that includes a return receipt;**

**to the circuit court clerk and to owners of real property described**





in section 2.2 of this chapter. Notice under this section must be published and mailed or delivered on the same date that notice of the adoption of the annexation ordinance is published under section 7 of this chapter.

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

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

(A) that remonstrance petitions must be filed not later than ninety (90) days after the date that notice of the adoption of the annexation ordinance was published under section 7 of this chapter; and

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

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

(A) The address of the location.

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

(e) Beginning the day after publication of the notice under subsection (c) and ending not later than ninety (90) days after publication of the notice under subsection (c), the municipality shall provide both of the following:

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

(2) At least one (1) additional location that is available for at least five (5) days, where a person may sign a remonstrance petition. The location must meet the following requirements:

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

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

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

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

(i) On a day that the location is open on a weekday, the



location must be open at a minimum from 5 p.m. to 9 p.m.

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

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

- (1) to witness the signing of remonstrance petitions; and
- (2) who shall swear and affirm before a notary public that the person witnessed each person sign the remonstrance petition.

SECTION 14. IC 36-4-3-11.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) A remonstrance petition may be filed by an owner of real property that:

- (1) is within the area to be annexed; and
- (2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) A remonstrance petition must comply with the following in order to be effective:

- (1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).
- (2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area to be annexed.
- (3) A remonstrance petition must be verified in compliance with subsection (e).

(d) The state board of accounts shall design the remonstrance forms to be used solely in the remonstrance process described in this section. The state board of accounts shall provide the forms to the county auditor in an electronic format that permits the county auditor to copy or reproduce the forms using:

- (1) the county auditor's own equipment; or
- (2) a commercial copying service.

The annexing municipality shall reimburse the county auditor for the cost of reproducing the remonstrance forms.

(e) The county auditor's office shall issue remonstrance forms



accompanied by instructions detailing all of the following requirements:

- (1) The closing date for the remonstrance period.
- (2) Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property and may sign a remonstrance petition. A person is entitled to sign a petition only one (1) time in a remonstrance process, regardless of whether the person owns more than one (1) parcel of real property.
- (3) An individual may not be:
  - (A) compensated for; or
  - (B) reimbursed for expenses incurred in; circulating a remonstrance petition and obtaining signatures.
- (4) The remonstrance petition may be executed in several counterparts, the total of which constitutes the remonstrance petition. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was affixed in the person's presence and is the true and lawful signature of the signer. The affidavit must be notarized.
- (5) A remonstrance petition that is not executed in counterparts must be verified by the person signing the petition in the manner prescribed by the state board of accounts and notarized.
- (6) A remonstrance petition may be delivered to the county auditor's office in person or by:
  - (A) certified mail, return receipt requested; or
  - (B) any other means of delivery that includes a return receipt.

The remonstrance petition must be postmarked not later than the closing date for the remonstrance period.

(7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section 11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.

(8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a



remonstrance petition after the remonstrance petition is filed with the county auditor.

(f) The county auditor shall prepare and update weekly a list of the persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection (g). The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than fifteen (15) business days after receiving a remonstrance petition, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed who signed the remonstrance, using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

SECTION 15. IC 36-4-3-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.3. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) An annexation ordinance is void if a written remonstrance petition is signed by one (1) of the following:

(1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any



single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

SECTION 16. IC 36-4-3-11.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11.4. (a) This section applies only to an annexation that the meets all of the following requirements:

(1) The annexation ordinance is adopted after December 31, 2016.

(2) Notwithstanding the contiguity requirements of section 1.5 of this chapter, at least one-tenth (1/10) of the aggregate external boundaries of the territory sought to be annexed coincides with the boundaries of:

(A) the municipality; and

(B) the site of an economic development project.

(b) As used in this section, "economic development project" means any project developed by the municipality that meets all of the following requirements:



**(1) The annexing municipality determines that the project will:**

**(A) promote significant opportunities for the gainful employment of its citizens;**

**(B) attract a major new business enterprise to the municipality; or**

**(C) retain or expand a significant business enterprise within the municipality.**

**(2) The project involves expenditures by the annexing municipality for any of the following:**

**(A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.**

**(B) Rehabilitation, renovation, and enlargement of buildings and structures.**

**(C) Machinery, equipment, furnishings, or facilities.**

**(D) Substance removal or remedial action.**

**(c) Notwithstanding section 11.3(b) of this chapter, even if a remonstrance has enough signatures to satisfy the requirements of section 11.3(b) of this chapter, the annexation ordinance is not void and may be appealed to the court under section 11 of this chapter, if all of the following requirements are met:**

**(1) The economic development project site needs the following capital services that the municipality is lawfully able to provide:**

**(A) water;**

**(B) sewer;**

**(C) gas; or**

**(D) any combination of the capital services described in clauses (A) through (C).**

**(2) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend, construct, or operate the capital services that are provided to the economic development project site.**

**(3) Before the date the annexation ordinance is adopted, a taxpayer whose business will occupy the economic development project site has done at least one (1) of the following:**

**(A) Filed a statement of benefits under IC 6-1.1-12.1 with the designating body for the annexing municipality for a deduction or abatement.**

**(B) Entered into an agreement with the Indiana economic development corporation for a credit under IC 6-3.1-13.**



**(d) If the economic development project:**

**(1) has not commenced within twelve (12) months after the date the annexation ordinance is adopted; or**

**(2) is not completed within thirty-six (36) months after the date the annexation ordinance is adopted;**

**the annexation territory is disannexed from the municipality and reverts to the jurisdiction of the unit having jurisdiction before the annexation. For purposes of this subsection, a economic development project is considered to have commenced on the day that the physical erection, installation, alteration, repair, or remodeling of a building or structure commences on the site of the economic development project.**

SECTION 17. IC 36-4-3-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.6. (a) This section applies to a remonstrance filed after June 30, 2015.**

**(b) If the court orders an annexation not to take place after a hearing under section 11 of this chapter, the remonstrators shall be reimbursed by the annexing municipality for any reasonable attorney's fees, including litigation expenses and appeal costs:**

**(1) that are incurred:**

**(A) after the date the annexation ordinance is adopted; and**

**(B) in remonstrating against the annexation; and**

**(2) not to exceed thirty-seven thousand five hundred dollars (\$37,500).**

SECTION 18. IC 36-4-3-11.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.7. (a) Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.**

**(b) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.**

SECTION 19. IC 36-4-3-13, AS AMENDED BY P.L.119-2012, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 13. (a) Except as provided in subsections subsection (e), and ~~(g)~~;** at the hearing under section 12 of



this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b), or (c).
- (2) The requirements of subsection (d).

**(3) The requirements of subsection (i).**

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

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

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

- (1) That the territory sought to be annexed is:
  - (A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; **and**
  - ~~(2) (B) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.~~

**(2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.**

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to





be used.

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

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

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

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

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

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

**(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the**



**annexation territory and the following information regarding each parcel:**

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

**(B) The parcel identification number.**

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

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

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

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

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

(i) Police and fire protection.

(ii) Street and road maintenance.

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

**(i) the personal finances; or**

**(ii) the business finances;**

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

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

**(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One**

**(1) of the following opposes the annexation:**

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

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

**(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One**

**(1) of the following opposes the annexation:**



**(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.**

**(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.**

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

**~~(E)~~ (F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.**

This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

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

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

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

**~~(g)~~ This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:**

- (1) Consider evidence on the conditions listed in subdivision (2);**
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory**



proposed to be annexed:

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

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

(B) The annexation will have a significant financial impact on the residents or owners of land:

(C) One (1) of the following opposes the annexation:

- (i) A majority of the owners of land in the territory proposed to be annexed;
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

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

(f) (g) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

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

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

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

- (A) the outreach program requirements and notice requirements of section 1.7 of this chapter; and**
- (B) the requirements of section 11.1 of this chapter.**

SECTION 20. IC 36-4-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the remonstrance, and during the time within which the remonstrance may be taken, **entry of a final unappealable judgment**, the territory sought to be annexed is not considered a part of the municipality.



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

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

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

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

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

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

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

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

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

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

(e) This subsection applies if a municipality repeals the annexation



ordinance:

(1) either:

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

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

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

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

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

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

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

(1) each annexation ordinance against which:

(A) a remonstrance or an appeal has not been filed during the period permitted under this chapter; **or**

**(B) a remonstrance was filed without a sufficient number of signatures to meet the requirements of section 11.3(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015; or**

(2) the certified copy of a **final and unappealable** judgment ordering an annexation to take place;

~~with each of the following:~~ **the county auditor, circuit court clerk, and board of registration (if a board of registration exists)** (A) The ~~county auditor~~ of each county in which the annexed territory is located, (B) The ~~circuit court clerk~~ of each county in which the annexed territory is located. (C) If a board of registration exists, the ~~registration board~~ of each county in which the annexed territory is located. (D) the office of the secretary of state, ~~(E) and~~ the office of census data established by IC 2-5-1.1-12.2. ~~(2) The clerk of the municipality shall~~



record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The ~~copy must be ordinance or judgment must be~~ filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or appeal; ~~or~~

(2) the delivery of a certified order under section 15 of this chapter; ~~or~~

**(3) the date the county auditor files the written certification with the legislative body under section 11.2 of this chapter, in the case of an annexation described in subsection (a)(1)(B).**

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

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

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

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 23. IC 36-9-22-2, AS AMENDED BY P.L.243-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the



installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

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

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works.

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





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

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

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

(f) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

**(g) Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.**

**(h) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the deed is recorded, that a waiver of the right of remonstrance exists with respect to the property.**

SECTION 24. IC 36-9-25-14, AS AMENDED BY P.L.243-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. (a) As to each municipality to which this chapter applies:

- (1) all the territory included within the corporate boundaries of the municipality; and
- (2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

- (1) a resolution adopted by the legislative body of another



municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) or (after June 30, 2013) a signed memorandum of the sewer service agreement



shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each agreement that is recorded, or each agreement of which a signed memorandum is recorded, and that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection (j), sewer service agreements made under subsection (e) must contain a waiver provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

- (1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;
- (2) not appeal from an order or a judgment annexing the property to a municipality; and
- (3) not file a complaint or an action against annexation proceedings.

(h) This subsection does not affect any rights or liabilities accrued or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, a waiver of the right to remonstrate under subsection (g) is binding as to an executor, administrator, heir, devisee, grantee, successor, or assign of a party to a sewer service agreement under subsection (g) only if the executor, administrator, heir, devisee, grantee, successor, or assign:

- (1) has actual notice of the waiver; or
- (2) has constructive notice of the waiver because the sewer service agreement or a signed memorandum of the sewer service agreement stating the waiver has been recorded in the chain of title of the property.

(i) This section does not affect any sewer service agreements



entered into before March 13, 1953.

(j) Subsection (g) does not apply to a landowner if all of the following conditions apply:

- (1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the municipality.

**(k) Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.**

**(l) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the deed is recorded, that a waiver of the right of remonstrance has been granted with respect to the property.**

SECTION 25. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "government committee" refers to the interim study committee on government established under IC 2-5-1.3-4.

(b) As used in this SECTION, "study committee" means an interim study committee established by IC 2-5-1.3-4.

(c) The general assembly urges the legislative council to assign to the government committee or another appropriate study committee the topic of the effect of SEA 330-2015, which amended the annexation laws, on economic development projects.

(d) If the legislative council assigns the topic described in subsection (c) to the government committee or another appropriate study committee, the government committee or the study committee shall complete the study required by this SECTION and report its findings and recommendations, if any, to the legislative council before November 1, 2015, and as required in IC 2-5-1.2-15.

(e) This SECTION expires January 1, 2016.

SECTION 26. An emergency is declared for this act.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

