

HOUSE BILL No. 1403

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-18-15-2; IC 36-4-3; IC 36-9.

Synopsis: Annexation. Provides that after June 30, 2019, an annexation may be initiated only as follows: (1) By a petition requesting annexation that is signed by 100% of the affected property owners. (2) By a municipality, if the territory is contiguous and 100% of the affected property owners consent to the annexation. (3) By a municipality, if the territory is noncontiguous and contains certain facilities that are owned or operated by the municipality or owned by a property owner that consents to the annexation. Establishes requirements for a property owner to consent to an annexation. Provides that the following provisions do not apply to an annexation for which an ordinance is adopted after June 30, 2019: (1) Annexation remonstrances. (2) Reimbursement of remonstrators' attorney's fees and costs. (3) Municipal outreach programs. (4) Annexations requested by petition of at least 51% of property owners. Provides that a settlement agreement in lieu of annexation that is executed after June 30, 2019, is void. Eliminates provisions regarding the contiguity of a public highway.

Effective: July 1, 2019.

Ellington

January 14, 2019, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1403

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, AS AMENDED BY P.L.228-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. (a) The persons involved shall negotiate the
4 terms for connection and service under this 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
15 (2) is considered a covenant running with the land.
16 (d) ~~Notwithstanding any other law, a waiver of the right of~~
17 ~~remonstrance executed after June 30, 2015, expires not later than~~



1 fifteen (15) years after the date the waiver was executed:

2 (e) (d) This subsection applies to any deed recorded after June 30,
3 2015. This subsection applies only to property that is subject to a
4 remonstrance waiver. A municipality shall, within a reasonable time
5 after the recording of a deed to property located within the
6 municipality, provide written notice to the property owner that a waiver
7 of the right of remonstrance exists with respect to the property.

8 (e) **Notwithstanding any other law, a waiver of the right of**
9 **remonstrance is valid and binding on a landowner or a successor**
10 **in title only with regard to an annexation for which the annexation**
11 **ordinance was adopted before July 1, 2019.**

12 SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.206-2016,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2019]: Sec. 1.5. (a) For purposes of this chapter, territory
15 sought to be annexed may be considered "contiguous" only if at least
16 one-eighth (1/8) of the aggregate external boundaries of the territory
17 coincides with the boundaries of the annexing municipality. In
18 determining if a territory is contiguous, a strip of land less than one
19 hundred fifty (150) feet wide that connects the annexing municipality
20 to the territory is not considered a part of the boundaries of either the
21 municipality or the territory.

22 (b) This subsection applies to an annexation for which an
23 annexation ordinance is adopted after June 30, 2015, **and before July**
24 **1, 2019.** A public highway or the rights-of-way of a public highway are
25 contiguous to:

26 (1) the municipality; or

27 (2) property in the unincorporated area adjacent to the public
28 highway or rights-of-way of a public highway;

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

32 (c) **This subsection applies to an annexation for which an**
33 **annexation ordinance is adopted after June 30, 2015, and before**
34 **July 1, 2019.** A public highway or the rights-of-way of a public
35 highway are not contiguous unless one (1) of the following
36 requirements is met:

37 (1) The municipality obtains the written consent of the owners of
38 all property:

39 (A) adjacent to the entire length of the part of the public
40 highway and rights-of-way of the public highway that is being
41 annexed; and

42 (B) not already within the corporate boundaries of the



1 municipality.

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

6 (2) All property adjacent to at least one (1) side of the entire
7 length of the part of the public highway or rights-of-way of the
8 public highway being annexed is already within the corporate
9 boundaries of the municipality.

10 (3) All property adjacent to at least one (1) side of the entire
11 length of the part of the public highway or rights-of-way of the
12 public highway being annexed is part of the same annexation
13 ordinance in which the public highway or rights-of-way of a
14 public highway are being annexed.

15 A municipality may not annex a public highway or the rights-of-way of
16 a public highway or annex territory adjacent to the public highway or
17 rights-of-way of a public highway unless the requirements of this
18 section are met.

19 SECTION 3. IC 36-4-3-1.7, AS AMENDED BY P.L.206-2016,
20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2019]: Sec. 1.7. (a) This section applies only to an annexation
22 ordinance adopted after June 30, 2015, **and before July 1, 2019**. This
23 section does not apply to an annexation under section 5.1 of this
24 chapter.

25 (b) Not earlier than six (6) months before a municipality introduces
26 an annexation ordinance, the municipality shall conduct an outreach
27 program to inform citizens regarding the proposed annexation. For an
28 annexation under section 3 or 4 of this chapter, the outreach program
29 must conduct at least six (6) public information meetings regarding the
30 proposed annexation. For an annexation under section 5 of this chapter,
31 the outreach program must conduct at least three (3) public information
32 meetings regarding the proposed annexation. The public information
33 meetings must provide citizens with the following information:

34 (1) Maps showing the proposed boundaries of the annexation
35 territory.

36 (2) Proposed plans for extension of capital and noncapital
37 services in the annexation territory, including proposed dates of
38 extension.

39 (3) Expected fiscal impact on taxpayers in the annexation
40 territory, including any increase in taxes and fees.

41 (c) The municipality shall provide notice of the dates, times, and
42 locations of the outreach program meetings. The municipality shall



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

10 (1) The notice must inform the landowner that the municipality is
 11 proposing to annex territory that includes the landowner's
 12 property.

13 (2) The municipality is conducting an outreach program for the
 14 purpose of providing information to landowners and the public
 15 regarding the proposed annexation.

16 (3) The date, time, and location of the meetings to be conducted
 17 under the outreach program.

18 (d) The notice shall be sent to the address of the landowner as listed
 19 on the tax duplicate. If the municipality provides evidence that the
 20 notice was sent:

21 (1) by certified mail, with return receipt requested or any other
 22 means of delivery that includes a return receipt; and

23 (2) in accordance with this section;

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

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

30 SECTION 4. IC 36-4-3-2.2, AS AMENDED BY P.L.228-2015,
 31 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2019]: Sec. 2.2. (a) This section does not apply to an
 33 annexation under section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter
 34 or an annexation described in section 5.1 of this chapter.

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

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

40 (2) any other means of delivery that includes a return receipt;
 41 ~~at least sixty (60)~~ **not later than twenty (20)** days before the date of
 42 the hearing to each owner of real property, as shown on the county



1 auditor's current tax list, whose real property is located within the
2 territory proposed to be annexed.

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

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

12 (1) A legal description of the real property proposed to be
13 annexed.

14 (2) The date, time, location, and subject of the hearing.

15 (3) A map showing the current municipal boundaries and the
16 proposed municipal boundaries.

17 (4) Current zoning classifications for the area proposed to be
18 annexed and any proposed zoning changes for the area proposed
19 to be annexed.

20 (5) A detailed summary of the fiscal plan, described in section 3.1
21 or 13 of this chapter, if applicable.

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

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

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

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

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

36 ~~(1) certified mail, return receipt requested; or~~

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

42 SECTION 5. IC 36-4-3-3.1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3.1. (a) This section
2 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),
3 4(h), or 4.1 of this chapter.

4 **(b) This subsection applies only to an annexation for which the**
5 **annexation ordinance was adopted before July 1, 2019.** A
6 municipality shall develop and adopt a written fiscal plan and establish
7 a definite policy by resolution of the legislative body that meets the
8 requirements set forth in section 13 of this chapter.

9 **(c) This subsection applies to an annexation for which the**
10 **annexation ordinance was adopted after June 30, 2019.** A
11 municipality shall develop and adopt a written fiscal plan and
12 establish a definite policy by resolution of the legislative body that
13 includes the following information:

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

17 **(2) The method or methods of financing the planned services.**
18 **The plan must explain how specific and detailed expenses will**
19 **be funded and must indicate the taxes, grants, and other**
20 **funding to be used.**

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

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

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



- 1 **criteria.**
- 2 **(6) The estimated effect of the proposed annexation on**
- 3 **taxpayers in each of the political subdivisions to which the**
- 4 **proposed annexation applies, including the expected tax rates,**
- 5 **tax levies, expenditure levels, service levels, and annual debt**
- 6 **service payments in those political subdivisions for four (4)**
- 7 **years after the effective date of the annexation.**
- 8 **(7) The estimated effect the proposed annexation will have on**
- 9 **municipal finances, specifically how municipal tax revenues**
- 10 **will be affected by the annexation for four (4) years after the**
- 11 **effective date of the annexation.**
- 12 **(8) Any estimated effects on political subdivisions in the**
- 13 **county that are not part of the annexation and on taxpayers**
- 14 **located in those political subdivisions for four (4) years after**
- 15 **the effective date of the annexation.**
- 16 **(9) A list of all parcels of property in the annexation territory**
- 17 **and the following information regarding each parcel:**
- 18 **(A) The name of the owner of the parcel.**
- 19 **(B) The parcel identification number.**
- 20 **(C) The most recent assessed value of the parcel.**
- 21 ~~(d)~~ **(d) Except as provided in subsection ~~(d)~~; (e), the municipality**
- 22 **shall establish and adopt the written fiscal plan before mailing the**
- 23 **notification to landowners in the territory proposed to be annexed**
- 24 **under section 2.2 of this chapter.**
- 25 ~~(e)~~ **(e) In an annexation under section 5 or 5.1 of this chapter, the**
- 26 **municipality shall establish and adopt the written fiscal plan before**
- 27 **adopting the annexation ordinance.**
- 28 **SECTION 6. IC 36-4-3-3.7 IS ADDED TO THE INDIANA CODE**
- 29 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 30 **1, 2019]: Sec. 3.7. (a) A consent to an annexation must be in**
- 31 **writing, signed, and notarized and must specify the annexation**
- 32 **ordinance for which the consent is signed. A consent executed**
- 33 **under this section:**
- 34 **(1) is irrevocable; and**
- 35 **(2) except as provided in subsection (b), expires on the earlier**
- 36 **of:**
- 37 **(A) the date the municipality withdraws, repeals, or**
- 38 **amends the ordinance; or**
- 39 **(B) one (1) year after the date that the consent is signed.**
- 40 **(b) If the annexation for which the consent was signed is**
- 41 **appealed under section 15.5 of this chapter, the consent is**
- 42 **irrevocable and in effect until the date that:**



1 **(1) a final nonappealable judgment is entered on the appeal**
 2 **that is adverse to the annexation; or**

3 **(2) the annexation is effective under section 7 of this chapter.**

4 **(c) A consent is durable and survives the death, incapacity, or**
 5 **incompetence of the signatory until the date that the:**

6 **(1) consent expires as set forth in subsection (a); or**

7 **(2) the annexation terminates or is effective as set forth in**
 8 **subsection (b).**

9 SECTION 7. IC 36-4-3-4, AS AMENDED BY P.L.206-2016,
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2019]: Sec. 4. (a) The legislative body of a municipality may,
 12 by ordinance, annex any of the following:

13 (1) Territory that is contiguous to the municipality, **if one**
 14 **hundred percent (100%) of the owners of land located within**
 15 **the territory consent to the annexation as set forth in section**
 16 **3.7 of this chapter.**

17 (2) Territory that is not contiguous to the municipality and is
 18 **solely** occupied by a **one (1) of the following** municipally owned
 19 or operated as ~~either of the following~~ **facilities:**

20 (A) An airport or landing field.

21 (B) A wastewater treatment facility or water treatment facility.

22 After a municipality annexes territory under this clause, the
 23 municipality may annex additional territory to enlarge the
 24 territory for the use of the wastewater treatment facility or
 25 water treatment facility only if the county legislative body
 26 approves that use of the additional territory by ordinance.

27 **If the municipality does not own the property within the**
 28 **annexation territory, the property owner must consent to the**
 29 **annexation as set forth in section 3.7 of this chapter.**

30 (3) Territory that is not contiguous to the municipality but is
 31 found by the legislative body to be **solely** occupied by:

32 (A) a municipally owned or regulated sanitary landfill, golf
 33 course, or hospital; or

34 (B) a police station of the municipality.

35 **If the municipality does not own the property within the**
 36 **territory, the property owner must consent to the annexation**
 37 **as set forth in section 3.7 of this chapter.**

38 However, if territory annexed under subdivision (2) or (3) ceases to be
 39 used for the purpose for which the territory was annexed for at least
 40 one (1) year, the territory reverts to the jurisdiction of the unit having
 41 jurisdiction before the annexation if the unit that had jurisdiction over
 42 the territory still exists. If the unit no longer exists, the territory reverts



1 to the jurisdiction of the unit that would currently have jurisdiction over
 2 the territory if the annexation had not occurred. The clerk of the
 3 municipality shall notify the offices required to receive notice of a
 4 disannexation under section 19 of this chapter when the territory
 5 reverts to the jurisdiction of the unit having jurisdiction before the
 6 annexation. Territory that is annexed under subdivision (2) (including
 7 territory that is enlarged under subdivision (2)(B) for the use of the
 8 wastewater treatment facility or water treatment facility) or subdivision
 9 (3) may not be considered a part of the municipality for purposes of
 10 annexing additional territory.

11 (b) This subsection applies to municipalities in a county having any
 12 of the following populations:

13 (1) More than seventy thousand fifty (70,050) but less than
 14 seventy-one thousand (71,000).

15 (2) More than seventy-five thousand (75,000) but less than
 16 seventy-seven thousand (77,000).

17 (3) More than seventy-one thousand (71,000) but less than
 18 seventy-five thousand (75,000).

19 (4) More than forty-seven thousand (47,000) but less than
 20 forty-seven thousand five hundred (47,500).

21 (5) More than thirty-eight thousand five hundred (38,500) but less
 22 than thirty-nine thousand (39,000).

23 (6) More than thirty-seven thousand (37,000) but less than
 24 thirty-seven thousand one hundred twenty-five (37,125).

25 (7) More than thirty-three thousand three hundred (33,300) but
 26 less than thirty-three thousand five hundred (33,500).

27 (8) More than twenty-three thousand three hundred (23,300) but
 28 less than twenty-four thousand (24,000).

29 (9) More than one hundred eighty-five thousand (185,000) but
 30 less than two hundred fifty thousand (250,000).

31 (10) More than two hundred fifty thousand (250,000) but less
 32 than two hundred seventy thousand (270,000).

33 (11) More than thirty-two thousand five hundred (32,500) but less
 34 than thirty-three thousand (33,000).

35 (12) More than seventy-seven thousand (77,000) but less than
 36 eighty thousand (80,000).

37 Except as provided in subsection (c), the legislative body of a
 38 municipality to which this subsection applies may, by ordinance, annex
 39 territory that is not contiguous to the municipality, has its entire area
 40 not more than two (2) miles from the municipality's boundary, is to be
 41 used for an industrial park containing one (1) or more businesses, and
 42 is either owned by the municipality or by a property owner who



1 consents to the annexation **as set forth in section 3.7 of this chapter.**
 2 However, if territory annexed under this subsection is not used as an
 3 industrial park within five (5) years after the date of passage of the
 4 annexation ordinance, or if the territory ceases to be used as an
 5 industrial park for at least one (1) year, the territory reverts to the
 6 jurisdiction of the unit having jurisdiction before the annexation if the
 7 unit that had jurisdiction over the territory still exists. If the unit no
 8 longer exists, the territory reverts to the jurisdiction of the unit that
 9 would currently have jurisdiction over the territory if the annexation
 10 had not occurred. The clerk of the municipality shall notify the offices
 11 entitled to receive notice of a disannexation under section 19 of this
 12 chapter when the territory reverts to the jurisdiction of the unit having
 13 jurisdiction before the annexation.

14 (c) A city in a county with a population of more than two hundred
 15 fifty thousand (250,000) but less than two hundred seventy thousand
 16 (270,000) may not annex territory as prescribed in subsection (b) until
 17 the territory is zoned by the county for industrial purposes.

18 (d) Notwithstanding any other law, territory that is annexed under
 19 subsection (b) or (h) is not considered a part of the municipality for the
 20 purposes of:

21 (1) annexing additional territory:

22 (A) in a county that is not described by clause (B); or

23 (B) in a county having a population of more than two hundred
 24 fifty thousand (250,000) but less than two hundred seventy
 25 thousand (270,000), unless the boundaries of the
 26 noncontiguous territory become contiguous to the city, as
 27 allowed by Indiana law;

28 (2) expanding the municipality's extraterritorial jurisdictional
 29 area; or

30 (3) changing an assigned service area under ~~IC 8-1-2.3-6(1)~~.

31 **IC 8-1-2.3-6(a)(1).**

32 (e) As used in this section, "airport" and "landing field" have the
 33 meanings prescribed by IC 8-22-1.

34 (f) As used in this section, "hospital" has the meaning prescribed by
 35 IC 16-18-2-179(b).

36 (g) An ordinance adopted under this section must assign the
 37 territory annexed by the ordinance to at least one (1) municipal
 38 legislative body district.

39 (h) This subsection applies to a city having a population of more
 40 than twenty-nine thousand nine hundred (29,900) but less than
 41 thirty-one thousand (31,000). The city legislative body may, by
 42 ordinance, annex territory that:



- 1 (1) is not contiguous to the city;
- 2 (2) has its entire area not more than eight (8) miles from the city's
- 3 boundary;
- 4 (3) does not extend more than:
 - 5 (A) one and one-half (1 1/2) miles to the west;
 - 6 (B) three-fourths (3/4) mile to the east;
 - 7 (C) one-half (1/2) mile to the north; or
 - 8 (D) one-half (1/2) mile to the south;
- 9 of an interchange of an interstate highway (as designated by the
- 10 federal highway authorities) and a state highway (as designated
- 11 by the state highway authorities); and
- 12 (4) is owned by the city or by a property owner that consents to
- 13 the annexation **as set forth in section 3.7 of this chapter.**

14 SECTION 8. IC 36-4-3-5, AS AMENDED BY P.L.149-2016,
 15 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 5. (a) This subsection applies only to a petition
 17 requesting annexation that is filed before July 1, 2015. If the owners of
 18 land located outside of but contiguous to a municipality want to have
 19 territory containing that land annexed to the municipality, they may file
 20 with the legislative body of the municipality a petition:

- 21 (1) signed by at least:
 - 22 (A) fifty-one percent (51%) of the owners of land in the
 - 23 territory sought to be annexed; or
 - 24 (B) the owners of seventy-five percent (75%) of the total
 - 25 assessed value of the land for property tax purposes; and
- 26 (2) requesting an ordinance annexing the area described in the
- 27 petition.

28 (b) This subsection applies only to a petition requesting annexation
 29 that is filed after June 30, 2015, **and before July 1, 2019.** If the owners
 30 of land located outside of but contiguous to a municipality want to have
 31 territory containing that land annexed to the municipality, they may file
 32 with the legislative body of the municipality a petition that meets the
 33 following requirements:

- 34 (1) The petition is signed by at least one (1) of the following:
 - 35 (A) Fifty-one percent (51%) of the owners of land in the
 - 36 territory. ~~sought to be annexed.~~ An owner of land may not:
 - 37 (i) be counted in calculating the total number of owners of
 - 38 land in the annexation territory; or
 - 39 (ii) have the owner's signature counted;
- 40 with regard to any single property that the owner has an
- 41 interest in that was exempt from property taxes under
- 42 IC 6-1.1-10 or any other state law for the immediately



1 preceding year.

2 (B) The owners of seventy-five percent (75%) of the total
3 assessed value of the land for property tax purposes. Land that
4 was exempt from property taxes under IC 6-1.1-10 or any
5 other state law for the immediately preceding year may not be
6 included in calculating the total assessed valuation of the land
7 in the annexation territory. The court may not count an owner's
8 signature on a petition with regard to any single property that
9 the owner has an interest in that was exempt from property
10 taxes under IC 6-1.1-10 or any other state law for the
11 immediately preceding year.

12 (2) The petition requests an ordinance annexing the area
13 described in the petition.

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

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

19 (d) If the legislative body fails to pass the ordinance within one
20 hundred fifty (150) days after the date of filing of a petition under
21 subsection (a) or (b), the petitioners may file a duplicate copy of the
22 petition in the circuit or superior court of a county in which the territory
23 is located, and shall include a written statement of why the annexation
24 should take place. Notice of the proceedings, in the form of a
25 summons, shall be served on the municipality named in the petition.
26 The municipality is the defendant in the cause and shall appear and
27 answer.

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

- 31 (1) essential municipal services and facilities are not available to
32 the residents of the territory sought to be annexed;
33 (2) the municipality is physically and financially able to provide
34 municipal services to the territory sought to be annexed;
35 (3) the population density of the territory sought to be annexed is
36 at least three (3) persons per acre; and
37 (4) the territory sought to be annexed is contiguous to the
38 municipality.

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

41 (f) This subsection does not apply to a town that has abolished town
42 legislative body districts under IC 36-5-2-4.1. An ordinance adopted



1 under this section must assign the territory annexed by the ordinance
2 to at least one (1) municipal legislative body district.

3 SECTION 9. IC 36-4-3-5.1, AS AMENDED BY P.L.228-2015,
4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2019]: Sec. 5.1. (a) Owners of land located outside **of** but
6 contiguous to a municipality may file a petition with the legislative
7 body of the municipality:

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

10 (2) signed by:

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

14 (B) in the case of a petition filed after June 30, 2015, one
15 hundred percent (100%) of the owners of land within the
16 territory that is proposed to be annexed.

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

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

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

24 (d) The municipality may:

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

26 (2) adopt a fiscal plan and establish a definite policy by resolution
27 of the legislative body **as set forth in section 3.1 of this chapter;**

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

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

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

38 (g) ~~A landowner may withdraw the landowner's signature from the~~
39 ~~petition not more than thirteen (13) days after the municipality adopts~~
40 ~~the fiscal plan by providing written notice to the office of the clerk of~~
41 ~~the municipality. If a landowner withdraws the landowner's signature,~~
42 ~~the petition shall automatically be considered a voluntary petition that~~



1 is filed with the legislative body under section 5 of this chapter;
 2 fourteen (14) days after the date the fiscal plan is adopted. All
 3 provisions applicable to a petition initiated under section 5 of this
 4 chapter apply to the petition.

5 ~~(h)~~ (g) If the municipality does not adopt an annexation ordinance
 6 within sixty (60) days after the landowners file the petition with the
 7 legislative body, the landowners may file a duplicate petition with the
 8 circuit or superior court of a county in which the territory is located
 9 **and shall include a written statement of why the annexation should**
 10 **take place. Notice of the proceedings, in the form of a summons,**
 11 **shall be served on the municipality named in the petition. The**
 12 **municipality is the defendant in the cause and shall appear and**
 13 **answer. The court shall determine whether the annexation shall take**
 14 **place as set forth in section 5 of this chapter. The court shall hear and**
 15 **determine the petition without a jury and shall order the proposed**
 16 **annexation to take place only if the evidence introduced by the**
 17 **parties establishes that:**

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

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

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

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

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

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

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

36 SECTION 10. IC 36-4-3-9, AS AMENDED BY P.L.243-2013,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2019]: Sec. 9. (a) A town must obtain the consent of both the
 39 metropolitan development commission and the legislative body of a
 40 county having a consolidated city before annexing territory within the
 41 county where a consolidated city is located.

42 (b) A town may not annex within an area that extends one (1) mile



1 outside the corporate boundaries of a second or third class city. A town
2 may annex within the area that extends:

- 3 (1) more than one (1) mile; and
4 (2) not more than three (3) miles;

5 outside the corporate boundaries of a second or third class city, if the
6 annexation by the town does not include territory that extends more
7 than one (1) mile outside the corporate boundaries of the town.

8 (c) Subsection (b) does not apply to:

- 9 (1) a town that proposes to annex territory located in a different
10 county than the city; or
11 (2) an annexation by a town that is:

- 12 (A) an annexation under section 5 or 5.1 of this chapter; or
13 (B) consented to by at least fifty-one percent (51%) of the
14 owners of land in the territory the town proposes to annex **as**
15 **set forth in section 3.7 of this chapter.**

16 (d) In determining the total number of landowners of the annexed
17 territory and whether signers of a consent under subsection (c)(2)(B)
18 are landowners, the names appearing on the tax duplicate for that
19 territory constitute prima facie evidence of ownership. Only one (1)
20 person having an interest in each single property, as evidenced by the
21 tax duplicate, is considered a landowner for purposes of this section.

22 (e) Each municipality that is known as an included town under
23 IC 36-3-1-7 is also considered a town for purposes of this section.

24 SECTION 11. IC 36-4-3-11, AS AMENDED BY P.L.206-2016,
25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2019]: Sec. 11. (a) This subsection applies only to an
27 annexation for which an annexation ordinance was adopted before July
28 1, 2015. Except as provided in ~~section 5.1(i) of this chapter and~~
29 ~~subsections subsection (e), and (f);~~ whenever territory is annexed by
30 a municipality under this chapter, the annexation may be appealed by
31 filing with the circuit or superior court of a county in which the
32 annexed territory is located a written remonstrance signed by:

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

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

41 (b) This subsection applies only to an annexation for which an
42 annexation ordinance was adopted before July 1, 2015. On receipt of



1 the remonstrance, the court shall determine whether the remonstrance
 2 has the necessary signatures. In determining the total number of
 3 landowners of the annexed territory and whether signers of the
 4 remonstrance are landowners, the names appearing on the tax duplicate
 5 for that territory constitute prima facie evidence of ownership. Only
 6 one (1) person having an interest in each single property, as evidenced
 7 by the tax duplicate, is considered a landowner for purposes of this
 8 section.

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

16 (d) This subsection applies only to an annexation for which an
 17 annexation ordinance was adopted after June 30, 2015, **and before**
 18 **July 1, 2019**. If the requirements of section 11.3(c) or (after December
 19 31, 2016) section 11.4 of this chapter are met, the annexation may be
 20 appealed by filing with the circuit or superior court of a county in
 21 which the annexed territory is located:

- 22 (1) the signed remonstrances filed with the county auditor;
- 23 (2) the county auditor's certification under section 11.2(i) of this
 24 chapter;
- 25 (3) the annexation ordinance; and
- 26 (4) a statement of the reason why the annexation should not take
 27 place.

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

34 ~~(e) If an annexation is initiated by property owners under section 5.1~~
 35 ~~of this chapter and all property owners within the area to be annexed~~
 36 ~~petition the municipality to be annexed, a remonstrance to the~~
 37 ~~annexation may not be filed under this section:~~

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

- 41 (1) the territory to be annexed consists of not more than one
 42 hundred (100) parcels; and



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

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

8 SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
9 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2019]: Sec. 11.1. (a) This section applies only to an
11 annexation ordinance adopted after June 30, 2015, **and before July 1,**
12 **2019.**

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

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

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

22 to the circuit court clerk and to owners of real property described in
23 section 2.2 of this chapter. Notice under this section must be published
24 and mailed or delivered on the same date that notice of the adoption of
25 the annexation ordinance is published under section 7 of this chapter.

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

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

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

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

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

42 (A) The address of the location.



- 1 (B) The dates and hours during which a remonstrance petition
- 2 may be signed at the location.
- 3 (e) Beginning the day after publication of the notice under
- 4 subsection (c) and ending not later than ninety (90) days after
- 5 publication of the notice under subsection (c), the municipality shall
- 6 provide both of the following:
- 7 (1) At least one (1) location in the offices of the municipality
- 8 where a person may sign a remonstrance petition during regular
- 9 business hours.
- 10 (2) At least one (1) additional location that is available for at least
- 11 five (5) days, where a person may sign a remonstrance petition.
- 12 The location must meet the following requirements:
- 13 (A) The location must be in a public building:
- 14 (i) owned or leased by the state or a political subdivision,
- 15 including a public library, community center, or parks and
- 16 recreation building; and
- 17 (ii) located within the boundaries of the municipality or the
- 18 annexation territory.
- 19 (B) The location must be open according to the following:
- 20 (i) On a day that the location is open on a weekday, the
- 21 location must be open at a minimum from 5 p.m. to 9 p.m.
- 22 (ii) On a day that the location is open on a Saturday or
- 23 Sunday, the location must be open at least four (4) hours
- 24 during the period from 9 a.m. to 5 p.m.
- 25 (f) An additional location may not be open on a day that is a legal
- 26 holiday. At any location and during the hours that a remonstrance
- 27 petition may be signed, the municipality shall have a person present:
- 28 (1) to witness the signing of remonstrance petitions; and
- 29 (2) who shall swear and affirm before a notary public that the
- 30 person witnessed each person sign the remonstrance petition.
- 31 SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016,
- 32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2019]: Sec. 11.2. (a) This section applies only to an
- 34 annexation ordinance adopted after June 30, 2015, **and before July 1,**
- 35 **2019.**
- 36 (b) A remonstrance petition may be filed by an owner of real
- 37 property that:
- 38 (1) is within the area to be annexed;
- 39 (2) was not exempt from property taxes under IC 6-1.1-10 or any
- 40 other state law for the immediately preceding year; and
- 41 (3) is not subject to a valid waiver of remonstrance.
- 42 (c) A remonstrance petition must comply with the following in order



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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



1 prescribed by the state board of accounts and notarized.

2 (6) A remonstrance petition may be delivered to the county
3 auditor's office in person or by:

4 (A) certified mail, return receipt requested; or

5 (B) any other means of delivery that includes a return receipt.

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

8 (7) The county auditor's office may not issue a remonstrance
9 petition earlier than the day that notice is published under section
10 11.1 of this chapter. The county auditor's office shall certify the
11 date of issuance on each remonstrance petition. Any person may
12 pick up additional copies of the remonstrance petition to
13 distribute to other persons.

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

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

29 (g) Not later than five (5) business days after receiving the
30 remonstrance petition, the county auditor shall submit a copy of the
31 remonstrance petition to the legislative body of the annexing
32 municipality.

33 (h) Not later than fifteen (15) business days after the legislative
34 body of the annexing municipality receives a copy of the remonstrance
35 petition from the county auditor, the annexing municipality shall
36 provide documentation to the county auditor regarding any valid waiver
37 of the right of remonstrance that exists on the property within the
38 annexation territory.

39 (i) Not later than fifteen (15) business days after receiving the
40 documentation regarding any valid waiver of the right of remonstrance
41 from the annexing municipality under subsection (h), if any, the county
42 auditor's office shall make a final determination of the number of



1 owners of real property within the territory to be annexed:

2 (1) who signed the remonstrance; and

3 (2) whose property is not subject to a valid waiver of the right of
4 remonstrance;

5 using the auditor's current tax records as provided in section 2.2 of this
6 chapter. The county auditor shall file a certificate with the legislative
7 body of the annexing municipality certifying the number of property
8 owners not later than five (5) business days after making the
9 determination.

10 SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015,
11 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 11.3. (a) This section applies only to an
13 annexation ordinance adopted after June 30, 2015, **and before July 1,**
14 **2019.**

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

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

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

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

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

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

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

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

42 (B) have the owner's signature counted on a remonstrance;



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

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

14 SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015,
 15 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 11.4. (a) This section applies only to an
 17 annexation that the meets all of the following requirements:

18 (1) The annexation ordinance is adopted after December 31,
 19 2016, **and before July 1, 2019.**

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

24 (A) the municipality; and

25 (B) the site of an economic development project.

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

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

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

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

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

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

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

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

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



- 1 (D) Substance removal or remedial action.
- 2 (c) Notwithstanding section 11.3(b) of this chapter, even if a
- 3 remonstrance has enough signatures to satisfy the requirements of
- 4 section 11.3(b) of this chapter, the annexation ordinance is not void and
- 5 may be appealed to the court under section 11 of this chapter, if all of
- 6 the following requirements are met:
- 7 (1) The economic development project site needs the following
- 8 capital services that the municipality is lawfully able to provide:
- 9 (A) water;
- 10 (B) sewer;
- 11 (C) gas; or
- 12 (D) any combination of the capital services described in
- 13 clauses (A) through (C).
- 14 (2) The municipality finds that it is in the municipality's best
- 15 interest to annex the annexation territory in order to extend,
- 16 construct, or operate the capital services that are provided to the
- 17 economic development project site.
- 18 (3) Before the date the annexation ordinance is adopted, a
- 19 taxpayer whose business will occupy the economic development
- 20 project site has done at least one (1) of the following:
- 21 (A) Filed a statement of benefits under IC 6-1.1-12.1 with the
- 22 designating body for the annexing municipality for a deduction
- 23 or abatement.
- 24 (B) Entered into an agreement with the Indiana economic
- 25 development corporation for a credit under IC 6-3.1-13.
- 26 (d) If the economic development project:
- 27 (1) has not commenced within twelve (12) months after the date
- 28 the annexation ordinance is adopted; or
- 29 (2) is not completed within thirty-six (36) months after the date
- 30 the annexation ordinance is adopted;
- 31 the annexation territory is disannexed from the municipality and reverts
- 32 to the jurisdiction of the unit having jurisdiction before the annexation.
- 33 For purposes of this subsection, **a** an economic development project is
- 34 considered to have commenced on the day that the physical erection,
- 35 installation, alteration, repair, or remodeling of a building or structure
- 36 commences on the site of the economic development project.
- 37 SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS
- 38 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11.5. **(a)** A landowner
- 39 in an unincorporated area is not required to grant a municipality a
- 40 waiver against remonstrance as a condition of connection to a sewer or
- 41 water service if all of the following conditions apply:
- 42 (1) The landowner is required to connect to the sewer or water



1 service because a person other than the landowner has polluted or
2 contaminated the area.

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

5 **(b) Notwithstanding any other law, a waiver of the right to**
6 **remonstrate is effective and binding on a landowner or a successor**
7 **in title only with regard to an annexation for which the annexation**
8 **ordinance was adopted before July 1, 2019.**

9 SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015,
10 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2019]: Sec. 11.6. (a) This section applies to a remonstrance
12 filed after June 30, 2015, **and before July 1, 2019.**

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

17 (1) that are incurred:

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

19 (B) in remonstrating against the annexation; and

20 (2) not to exceed thirty-seven thousand five hundred dollars
21 (\$37,500).

22 SECTION 18. IC 36-4-3-11.7, AS ADDED BY P.L.228-2015,
23 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2019]: Sec. 11.7. ~~(a) Notwithstanding any other law, a waiver~~
25 ~~of the right of remonstrance executed after June 30, 2015, expires not~~
26 ~~later than fifteen (15) years after the date the waiver was executed.~~

27 ~~(b) (a) This subsection applies to any deed recorded after June 30,~~
28 ~~2015. This subsection applies only to property that is subject to a~~
29 ~~remonstrance waiver. A municipality shall, within a reasonable time~~
30 ~~after the recording of a deed to property located within the~~
31 ~~municipality, provide written notice to the property owner that a waiver~~
32 ~~of the right of remonstrance exists with respect to the property.~~

33 **(b) Notwithstanding any other law, a waiver of the right of**
34 **remonstrance is effective and binding on a landowner or a**
35 **successor in title only with regard to an annexation for which the**
36 **annexation ordinance was adopted before July 1, 2019.**

37 SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
38 SECTION 117, IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2019]: Sec. 12. **(a) This section applies only**
40 **to an annexation for which an annexation ordinance is adopted**
41 **before July 1, 2019.**

42 ~~(a) (b) The circuit or superior court shall:~~



- 1 (1) on the date fixed under section 11 of this chapter (**in the case**
 2 **of an annexation for which an annexation ordinance is**
 3 **adopted before July 1, 2019**), hear and determine the
 4 remonstrance without a jury; and
 5 (2) without delay, enter judgment on the question of the
 6 annexation according to the evidence that either party may
 7 introduce.

8 ~~(b)~~ (c) If the court enters judgment in favor of the annexation, the
 9 annexation may not take effect during the year preceding the year in
 10 which a federal decennial census is conducted. An annexation that
 11 would otherwise take effect during the year preceding a year in which
 12 a federal decennial census is conducted takes effect January 1 of the
 13 year in which a federal decennial census is conducted.

14 SECTION 20. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
 15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 13. (a) **This section applies only to an**
 17 **annexation for which an annexation ordinance is adopted before**
 18 **July 1, 2019**. Except as provided in subsection (e), at the hearing under
 19 section 12 of this chapter, the court shall order a proposed annexation
 20 to take place if the following requirements are met:

- 21 (1) The requirements of either subsection (b) or (c).
 22 (2) The requirements of subsection (d).
 23 (3) The requirements of subsection (i).

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

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

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

- 36 (1) That the territory sought to be annexed is:
 37 (A) contiguous to the municipality as required by section 1.5
 38 of this chapter, except that at least one-fourth (1/4), instead of
 39 one-eighth (1/8), of the aggregate external boundaries of the
 40 territory sought to be annexed must coincide with the
 41 boundaries of the municipality; and
 42 (B) needed and can be used by the municipality for its



- 1 development in the reasonably near future.
- 2 (2) This subdivision applies only to an annexation for which an
- 3 annexation ordinance is adopted after December 31, 2016. That
- 4 the territory sought to be annexed involves an economic
- 5 development project and the requirements of section 11.4 of this
- 6 chapter are met.
- 7 (d) The requirements of this subsection are met if the evidence
- 8 establishes that the municipality has developed and adopted a written
- 9 fiscal plan and has established a definite policy, by resolution of the
- 10 legislative body as set forth in section 3.1 of this chapter. The fiscal
- 11 plan must show the following:
- 12 (1) The cost estimates of planned services to be furnished to the
- 13 territory to be annexed. The plan must present itemized estimated
- 14 costs for each municipal department or agency.
- 15 (2) The method or methods of financing the planned services. The
- 16 plan must explain how specific and detailed expenses will be
- 17 funded and must indicate the taxes, grants, and other funding to
- 18 be used.
- 19 (3) The plan for the organization and extension of services. The
- 20 plan must detail the specific services that will be provided and the
- 21 dates the services will begin.
- 22 (4) That planned services of a noncapital nature, including police
- 23 protection, fire protection, street and road maintenance, and other
- 24 noncapital services normally provided within the corporate
- 25 boundaries, will be provided to the annexed territory within one
- 26 (1) year after the effective date of annexation and that they will be
- 27 provided in a manner equivalent in standard and scope to those
- 28 noncapital services provided to areas within the corporate
- 29 boundaries regardless of similar topography, patterns of land use,
- 30 and population density.
- 31 (5) That services of a capital improvement nature, including street
- 32 construction, street lighting, sewer facilities, water facilities, and
- 33 stormwater drainage facilities, will be provided to the annexed
- 34 territory within three (3) years after the effective date of the
- 35 annexation in the same manner as those services are provided to
- 36 areas within the corporate boundaries, regardless of similar
- 37 topography, patterns of land use, and population density, and in
- 38 a manner consistent with federal, state, and local laws,
- 39 procedures, and planning criteria.
- 40 (6) This subdivision applies to a fiscal plan prepared after June
- 41 30, 2015. The estimated effect of the proposed annexation on
- 42 taxpayers in each of the political subdivisions to which the



- 1 proposed annexation applies, including the expected tax rates, tax
 2 levies, expenditure levels, service levels, and annual debt service
 3 payments in those political subdivisions for four (4) years after
 4 the effective date of the annexation.
- 5 (7) This subdivision applies to a fiscal plan prepared after June
 6 30, 2015. The estimated effect the proposed annexation will have
 7 on municipal finances, specifically how municipal tax revenues
 8 will be affected by the annexation for four (4) years after the
 9 effective date of the annexation.
- 10 (8) This subdivision applies to a fiscal plan prepared after June
 11 30, 2015. Any estimated effects on political subdivisions in the
 12 county that are not part of the annexation and on taxpayers
 13 located in those political subdivisions for four (4) years after the
 14 effective date of the annexation.
- 15 (9) This subdivision applies to a fiscal plan prepared after June
 16 30, 2015. A list of all parcels of property in the annexation
 17 territory and the following information regarding each parcel:
- 18 (A) The name of the owner of the parcel.
 19 (B) The parcel identification number.
 20 (C) The most recent assessed value of the parcel.
 21 (D) The existence of a known waiver of the right to
 22 remonstrate on the parcel. This clause applies only to a fiscal
 23 plan prepared after June 30, 2016.
- 24 (e) At the hearing under section 12 of this chapter the court shall do
 25 the following:
- 26 (1) Consider evidence on the conditions listed in subdivision (2).
 27 (2) Order a proposed annexation not to take place if the court
 28 finds that all of the following conditions that are applicable to the
 29 annexation exist in the territory proposed to be annexed:
- 30 (A) This clause applies only to an annexation for which an
 31 annexation ordinance was adopted before July 1, 2015. The
 32 following services are adequately furnished by a provider
 33 other than the municipality seeking the annexation:
- 34 (i) Police and fire protection.
 35 (ii) Street and road maintenance.
- 36 (B) The annexation will have a significant financial impact on
 37 the residents or owners of land. The court may not consider:
- 38 (i) the personal finances; or
 39 (ii) the business finances;
 40 of a resident or owner of land. The personal and business
 41 financial records of the residents or owners of land, including
 42 state, federal, and local income tax returns, may not be subject



- 1 to a subpoena or discovery proceedings.
- 2 (C) The annexation is not in the best interests of the owners of
- 3 land in the territory proposed to be annexed as set forth in
- 4 subsection (f).
- 5 (D) This clause applies only to an annexation for which an
- 6 annexation ordinance is adopted before July 1, 2015. One (1)
- 7 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 for which an
- 16 annexation ordinance is adopted after June 30, 2015. One (1)
- 17 of the following opposes the annexation:
- 18 (i) At least fifty-one percent (51%) of the owners of land in
- 19 the territory proposed to be annexed.
- 20 (ii) The owners of more than sixty percent (60%) in assessed
- 21 valuation of the land in the territory proposed to be annexed.
- 22 The remonstrance petitions filed with the court under section
- 23 11 of this chapter are evidence of the number of owners of
- 24 land that oppose the annexation, minus any written revocations
- 25 of remonstrances that are filed with the court under section 11
- 26 of this chapter.
- 27 (F) This clause applies only to an annexation for which an
- 28 annexation ordinance is adopted before July 1, 2015. This
- 29 clause applies only to an annexation in which eighty percent
- 30 (80%) of the boundary of the territory proposed to be annexed
- 31 is contiguous to the municipality and the territory consists of
- 32 not more than one hundred (100) parcels. At least seventy-five
- 33 percent (75%) of the owners of land in the territory proposed
- 34 to be annexed oppose the annexation as determined under
- 35 section 11(b) of this chapter.
- 36 (f) The municipality under subsection (e)(2)(C) bears the burden of
- 37 proving that the annexation is in the best interests of the owners of land
- 38 in the territory proposed to be annexed. In determining this issue, the
- 39 court may consider whether the municipality has extended sewer or
- 40 water services to the entire territory to be annexed:
- 41 (1) within the three (3) years preceding the date of the
- 42 introduction of the annexation ordinance; or



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

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

6 (g) The most recent:

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

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

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

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

22 ~~(A)~~ (1) the outreach program requirements and notice
23 requirements of section 1.7 of this chapter; and

24 ~~(B)~~ (2) the requirements of section 11.1 of this chapter.

25 SECTION 21. IC 36-4-3-14, AS AMENDED BY P.L.228-2015,
26 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2019]: Sec. 14. **This section applies only to an annexation
28 for which an annexation ordinance is adopted before July 1, 2019.**

29 In a hearing under section 12 of this chapter, the laws providing for
30 change of venue from the county do not apply, but changes of venue
31 from the judge may be had as in other cases. Costs follow judgment.
32 Pending the entry of a final unappealable judgment, the territory sought
33 to be annexed is not considered a part of the municipality.

34 SECTION 22. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
35 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2019]: Sec. 15. (a) The court's judgment under section 12 or
37 15.5 of this chapter must specify the annexation ordinance. ~~on which
38 the remonstrance is based.~~ The clerk of the court shall deliver a
39 certified copy of the final and unappealable judgment to the clerk of the
40 municipality. The clerk of the municipality shall:

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



- 1 margin of the record of the annexation ordinance.
- 2 (b) If a final and unappealable judgment under section 12 or 15.5 of
 3 this chapter is adverse to annexation, the municipality may not make
 4 further attempts to annex the territory or any part of the territory during
 5 the four (4) years after the later of:
 6 (1) the judgment of the circuit or superior court; or
 7 (2) the date of the final disposition of all appeals to a higher court;
 8 unless the annexation is petitioned for under section 5 or 5.1 of this
 9 chapter.
- 10 (c) This subsection applies if a municipality repeals the annexation
 11 ordinance:
 12 (1) less than sixty-one (61) days after the publication of the
 13 ordinance under section 7(a) of this chapter; and
 14 (2) before the hearing commences on the remonstrance under
 15 section 11(c) of this chapter **(in the case of an annexation for**
 16 **which an annexation ordinance is adopted before July 1,**
 17 **2019).**
- 18 A municipality may not make further attempts to annex the territory or
 19 any part of the territory during the twelve (12) months after the date the
 20 municipality repeals the annexation ordinance. This subsection does
 21 not prohibit an annexation of the territory or part of the territory that is
 22 petitioned for under section 5 or 5.1 of this chapter.
- 23 (d) This subsection applies if a municipality repeals the annexation
 24 ordinance:
 25 (1) at least sixty-one (61) days but not more than one hundred
 26 twenty (120) days after the publication of the ordinance under
 27 section 7(a) of this chapter; and
 28 (2) before the hearing commences on the remonstrance under
 29 section 11(c) of this chapter **(in the case of an annexation for**
 30 **which an annexation ordinance is adopted before July 1,**
 31 **2019).**
- 32 A municipality may not make further attempts to annex the territory or
 33 any part of the territory during the twenty-four (24) months after the
 34 date the municipality repeals the annexation ordinance. This subsection
 35 does not prohibit an annexation of the territory or part of the territory
 36 that is petitioned for under section 5 or 5.1 of this chapter.
- 37 (e) This subsection applies if a municipality repeals the annexation
 38 ordinance:
 39 (1) either:
 40 (A) at least one hundred twenty-one (121) days after
 41 publication of the ordinance under section 7(a) of this chapter
 42 but before the hearing commences on the remonstrance under



1 section 11(c) of this chapter (**in the case of an annexation for**
 2 **which an annexation ordinance is adopted before July 1,**
 3 **2019); or**

4 (B) after the hearing commences on the remonstrance as set
 5 forth in section 11(c) of this chapter (**in the case of an**
 6 **annexation for which an annexation ordinance is adopted**
 7 **before July 1, 2019); and**

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

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

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

17 SECTION 23. IC 36-4-3-15.3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15.3. (a) As used in this
 19 section, "prohibition against annexation" means that a municipality
 20 may not make further attempts to annex certain territory or any part of
 21 that territory.

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

25 (c) Under a settlement agreement between the annexing
 26 municipality and either:

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

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

32 the parties may mutually agree to a prohibition against annexation of
 33 all or part of the territory by the municipality for a period not to exceed
 34 twenty (20) years. The settlement agreement may address issues and
 35 bind the parties to matters relating to the provision by a municipality
 36 of planned services of a noncapital nature and services of a capital
 37 improvement nature (as described in section 13(d) of this chapter), in
 38 addition to a prohibition against annexation. The settlement agreement
 39 is binding upon the successors, heirs, and assigns of the parties to the
 40 agreement. However, the settlement agreement may be amended or
 41 revised periodically on further agreement between the annexing
 42 municipality and landowners who meet the qualifications of ~~subsection~~



1 ~~(c)(1) or (c)(2): subdivision (1) or (2).~~

2 **(d) A settlement agreement executed after July 1, 2019, is void.**

3 SECTION 24. IC 36-4-3-16 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. (a) Within one (1)
5 year after the expiration of:

6 (1) the one (1) year period for implementation of planned services
7 of a noncapital nature under section **3.1(c)(4) or** 13(d)(4) of this
8 chapter; or

9 (2) the three (3) year period for the implementation of planned
10 services of a capital improvement nature under section **3.1(c)(5)**
11 **or** 13(d)(5) of this chapter;

12 any person who pays taxes on property located within the annexed
13 territory may file a complaint alleging injury resulting from the failure
14 of the municipality to implement the plan. The complaint must name
15 the municipality as defendant and shall be filed with the circuit or
16 superior court of the county in which the annexed territory is located.

17 (b) The court shall hear the case within sixty (60) days without a
18 jury. In order to be granted relief, the plaintiff must establish one (1) of
19 the following:

20 (1) That the municipality has without justification failed to
21 implement the plan required by section **3.1 or** 13 of this chapter
22 within the specific time limit for implementation after annexation.

23 (2) That the municipality has not provided police protection, fire
24 protection, sanitary sewers, and water for human consumption
25 within the specific time limit for implementation, unless one (1)
26 of these services is being provided by a separate taxing district or
27 by a privately owned public utility.

28 (3) That the annexed territory is not receiving governmental and
29 proprietary services substantially equivalent in standard and scope
30 to the services provided by the municipality to other areas of the
31 municipality, regardless of topography, patterns of land use, and
32 population density similar to the annexed territory.

33 (c) The court may:

34 (1) grant an injunction prohibiting the collection of taxes levied
35 by the municipality on the plaintiff's property located in the
36 annexed territory;

37 (2) award damages to the plaintiff not to exceed one and
38 one-fourth (1 1/4) times the taxes collected by the municipality
39 for the plaintiff's property located in the annexed territory;

40 (3) order the annexed territory or any part of it to be disannexed
41 from the municipality;

42 (4) order the municipality to submit a revised fiscal plan for



- 1 providing the services to the annexed territory within time limits
 2 set up by the court; or
 3 (5) grant any other appropriate relief.
- 4 (d) A change of venue from the county is not permitted for an action
 5 brought under this section.
- 6 (e) If the court finds for the plaintiff, the defendant shall pay all
 7 court costs and reasonable attorney's fees as approved by the court.
- 8 (f) The provisions of this chapter that apply to territory disannexed
 9 by other procedures apply to territory disannexed under this section.
- 10 SECTION 25. IC 36-4-3-22, AS AMENDED BY P.L.228-2015,
 11 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2019]: Sec. 22. (a) The clerk of the municipality shall file:
- 13 (1) each annexation ordinance: ~~against which:~~
- 14 (A) **against which:**
- 15 (i) a remonstrance **(in the case of an annexation for which**
 16 **an annexation ordinance is adopted before July 1, 2019);**
 17 or
 18 (ii) an appeal;
 19 has not been filed during the period permitted under this
 20 chapter; or
- 21 (B) **against which** a remonstrance was filed without a
 22 sufficient number of signatures to meet the requirements of
 23 section 11.3(c) of this chapter, in the case of an annexation for
 24 which an annexation ordinance was adopted after June 30,
 25 2015, **and before July 1, 2019;** or
- 26 (2) the certified copy of a final and unappealable judgment
 27 ordering an annexation to take place;
 28 with the county auditor, circuit court clerk, and board of registration (if
 29 a board of registration exists) of each county in which the annexed
 30 territory is located, the office of the secretary of state, and the office of
 31 census data established by IC 2-5-1.1-12.2. The clerk of the
 32 municipality shall record each annexation ordinance adopted under this
 33 chapter in the office of the county recorder of each county in which the
 34 annexed territory is located.
- 35 (b) The ordinance or judgment must be filed and recorded ~~no~~ **not**
 36 later than ninety (90) days after:
- 37 (1) the expiration of the period permitted for:
- 38 (A) a remonstrance **(in the case of an annexation for which**
 39 **an annexation ordinance is adopted before July 1, 2019);**
 40 or
 41 (B) **an appeal under section 15.5 of this chapter;**
 42 (2) the delivery of a certified order under section 15 of this



- 1 chapter; or
 2 (3) the date the county auditor files the written certification with
 3 the legislative body under section 11.2 of this chapter, in the case
 4 of an annexation:
 5 (A) described in subsection (a)(1)(B); and
 6 (B) for which an annexation ordinance is adopted before
 7 July 1, 2019.
 8 (c) Failure to record the annexation ordinance as provided in
 9 subsection (a) does not invalidate the ordinance.
 10 (d) The county auditor shall forward a copy of any annexation
 11 ordinance filed under this section to the following:
 12 (1) The county highway department of each county in which the
 13 lots or lands affected are located.
 14 (2) The county surveyor of each county in which the lots or lands
 15 affected are located.
 16 (3) Each plan commission, if any, that lost or gained jurisdiction
 17 over the annexed territory.
 18 (4) The sheriff of each county in which the lots or lands affected
 19 are located.
 20 (5) The township trustee of each township that lost or gained
 21 jurisdiction over the annexed territory.
 22 (6) The office of the secretary of state.
 23 (7) The office of census data established by IC 2-5-1.1-12.2.
 24 (e) The county auditor may require the clerk of the municipality to
 25 furnish an adequate number of copies of the annexation ordinance or
 26 may charge the clerk a fee for photoreproduction of the ordinance. The
 27 county auditor shall notify the office of the secretary of state and the
 28 office of census data established by IC 2-5-1.1-12.2 of the date that the
 29 annexation ordinance is effective under this chapter.
 30 (f) The county auditor or county surveyor shall, upon determining
 31 that an annexation ordinance has become effective under this chapter,
 32 indicate the annexation upon the property taxation records maintained
 33 in the office of the auditor or the office of the county surveyor.
 34 SECTION 26. IC 36-9-22-2, AS AMENDED BY P.L.18-2018,
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2019]: Sec. 2. (a) The power of the municipal works board to
 37 fix the terms of a contract under this section applies to contracts for the
 38 installation of sewage works that have not been finally approved or
 39 accepted for full maintenance and operation by the municipality on July
 40 1, 1979.
 41 (b) The works board of a municipality may contract with owners of
 42 real property for the construction of sewage works within the



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

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

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

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

24 (c) The contract must include, as part of the consideration running
25 to the municipality, the release of the right of:

26 (1) the parties to the contract; and

27 (2) the successors in title of the parties to the contract;

28 to remonstrate against pending or future annexations by the
29 municipality of the area served by the sewage works. Any person
30 tapping into or connecting to the sewage works contracted for is
31 considered to waive the person's rights to remonstrate against the
32 annexation of the area served by the sewage works.

33 (d) Notwithstanding subsection (c), the works board of a
34 municipality may waive the provisions of subsection (c) in the contract
35 if the works board considers a waiver of subsection (c) to be in the best
36 interests of the municipality.

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



- 1 title:
- 2 (1) has actual notice of the release; or
- 3 (2) has constructive notice of the release because the contract, or
- 4 a signed memorandum of the contract stating the release, has been
- 5 recorded in the chain of title of the property.
- 6 (f) Subsection (c) does not apply to a landowner if all of the
- 7 following conditions apply:
- 8 (1) The landowner is required to connect to the sewage works
- 9 because a person other than the landowner has polluted or
- 10 contaminated the area.
- 11 (2) The costs of extension of or connection to the sewage works
- 12 are paid by a person other than the landowner or the municipality.
- 13 (g) Subsection (c) does not apply to a landowner who taps into,
- 14 connects to, or is required to tap into or connect to the sewage works
- 15 of a municipality only because the municipality provides wholesale
- 16 sewage service (as defined in IC 8-1-2-61.7) to another municipality
- 17 that provides sewage service to the landowner.
- 18 ~~(h) Notwithstanding any other law, a waiver of the right of~~
- 19 ~~remonstrance executed after June 30, 2015, expires not later than~~
- 20 ~~fifteen (15) years after the date the waiver was executed.~~
- 21 ~~(h)~~ (h) This subsection applies to any deed recorded after June 30,
- 22 2015. This subsection applies only to property that is subject to a
- 23 remonstrance waiver. A municipality shall provide written notice to
- 24 any successor in title to property within a reasonable time after the
- 25 deed is recorded, that a waiver of the right of remonstrance exists with
- 26 respect to the property.
- 27 (i) **Notwithstanding any other law, a release of the right to**
- 28 **remonstrate is effective and binding on a landowner or a successor**
- 29 **in title to a party to the contract only with regard to an annexation**
- 30 **for which the annexation ordinance was adopted before July 1,**
- 31 **2019.**
- 32 SECTION 27. IC 36-9-24-14 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. A municipality that
- 34 leases and operates sewage disposal facilities in an area within one (1)
- 35 mile outside its corporate boundaries is considered to be furnishing
- 36 sewage and sewer service in that area for purposes of ~~IC 36-4-3-13.~~
- 37 **IC 36-4-3.**
- 38 SECTION 28. IC 36-9-25-14, AS AMENDED BY P.L.228-2015,
- 39 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2019]: Sec. 14. (a) As to each municipality to which this
- 41 chapter applies:
- 42 (1) all the territory included within the corporate boundaries of



1 the municipality; and

2 (2) any territory, town, addition, platted subdivision, or unplatted
3 land lying outside the corporate boundaries of the municipality
4 that has been taken into the district in accordance with a prior
5 statute, the sewage or drainage of which discharges into or
6 through the sewage system of the municipality;

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

11 (b) Upon request by:

12 (1) a resolution adopted by the legislative body of another
13 municipality in the same county; or

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

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

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

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



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

11 (f) All sewer service agreements made under subsection (e) or (after
12 June 30, 2013) a signed memorandum of the sewer service agreement
13 shall be recorded in the office of the recorder of the county where the
14 property is located. The agreements run with the property described
15 and are binding upon the persons owning or occupying the property,
16 their personal representatives, heirs, devisees, grantees, successors, and
17 assigns. Each agreement that is recorded, or each agreement of which
18 a signed memorandum is recorded, and that provides for the property
19 being served to be placed on the tax rolls shall be certified by the board
20 to the auditor of the county where the property is located. The
21 certification must state the date the property is to be placed on the tax
22 rolls, and upon receipt of the certification together with a copy of the
23 agreement, the auditor shall immediately place the property certified
24 upon the rolls of property subject to the levy and collection of taxes for
25 the district. An agreement may provide for the collection of a service
26 charge for the period services are rendered before the levy and
27 collection of the tax.

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

33 (1) neither object to nor file a remonstrance against the proposed
34 annexation of the property by a municipality within the
35 boundaries of the district;

36 (2) not appeal from an order or a judgment annexing the property
37 to a municipality; and

38 (3) not file a complaint or an action against annexation
39 proceedings.

40 (h) This subsection does not affect any rights or liabilities accrued
41 or proceedings begun before July 1, 2013. Those rights, liabilities, and
42 proceedings continue and shall be imposed and enforced under prior



1 law as if this subsection had not been enacted. For contracts executed
 2 after June 30, 2013, a waiver of the right to remonstrate under
 3 subsection (g) is binding as to an executor, administrator, heir, devisee,
 4 grantee, successor, or assign of a party to a sewer service agreement
 5 under subsection (g) only if the executor, administrator, heir, devisee,
 6 grantee, successor, or assign:

7 (1) has actual notice of the waiver; or

8 (2) has constructive notice of the waiver because the sewer
 9 service agreement or a signed memorandum of the sewer service
 10 agreement stating the waiver has been recorded in the chain of
 11 title of the property.

12 (i) This section does not affect any sewer service agreements
 13 entered into before March 13, 1953.

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

16 (1) The landowner is required to connect to a sewer service
 17 because a person other than the landowner has polluted or
 18 contaminated the area.

19 (2) The costs of extension of service or connection to the sewer
 20 service are paid by a person other than the landowner or the
 21 municipality.

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

25 ~~(†) (k) This subsection applies to any deed recorded after June 30,~~
 26 ~~2015. This subsection applies only to property that is subject to a~~
 27 ~~remonstrance waiver. A municipality shall provide written notice to~~
 28 ~~any successor in title to property within a reasonable time after the~~
 29 ~~deed is recorded, that a waiver of the right of remonstrance has been~~
 30 ~~granted with respect to the property.~~

31 **(l) Notwithstanding any other law, a release of the right to**
 32 **remonstrate is effective and binding on a landowner or a successor**
 33 **in title to a party to the contract only with regard to an annexation**
 34 **for which the annexation ordinance was adopted before July 1,**
 35 **2019.**

