



January 26, 2021

SENATE BILL No. 95

DIGEST OF SB 95 (Updated January 14, 2021 11:59 am - DI 140)

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

Synopsis: Annexation. Provides, with certain exceptions, that the following apply to annexations for which an annexation ordinance is adopted after May 14, 2021: (1) A municipality initiating an annexation must file a petition with the court signed by: (A) at least 51% of the owners of land that is not exempt from property taxes in the annexation territory; or (B) the owners of more than 75% in assessed valuation of land that is not exempt from property taxes in the annexation territory. (2) If the petition filed by the municipality has enough signatures, the court must hold a hearing to review the annexation. (3) Adds provisions regarding the validity of a signature on an annexation petition. (4) Eliminates the remonstrance procedure for annexations and reimbursement of remonstrator's attorney's fees and costs. (5) Provides that remonstrance waivers are void for annexations for which the annexation ordinance is adopted after May 14, 2021. (6) Provides that a settlement agreement in lieu of annexation that is executed after May 14, 2021, is void. (7) Eliminates provisions regarding the contiguity of a public highway. Eliminates provisions that prohibit an annexation from taking effect in the year preceding the year that a federal decennial census is conducted.

Effective: Upon passage.

Boots

January 5, 2021, read first time and referred to Committee on Local Government.
January 25, 2021, reported favorably — Do Pass.

SB 95—LS 6114/DI 87



January 26, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 95

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.257-2019,
2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: 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) This subsection applies to any deed recorded after June 30,
17 2015. This subsection applies only to property that is subject to a

SB 95—LS 6114/DI 87



1 remonstrance waiver. A municipality shall, within a reasonable time
 2 after the recording of a deed to property located within the
 3 municipality, provide written notice to the property owner that a waiver
 4 of the right of remonstrance exists with respect to the property.

5 (e) A remonstrance waiver executed before July 1, 2003, is void.
 6 This subsection does not invalidate an annexation that was effective on
 7 or before July 1, 2019.

8 (f) A remonstrance waiver executed after June 30, 2003, and before
 9 July 1, 2019, is subject to the following:

10 (1) The waiver is void unless the waiver was recorded ~~(A)~~ before
 11 January 1, 2020, ~~and (B)~~ with the county recorder of the county
 12 where the property subject to the waiver is located.

13 (2) A waiver that is not void under subdivision (1) **or subsection**
 14 **(h)** expires not later than fifteen (15) years after the date the
 15 waiver is executed.

16 This subsection does not invalidate an annexation that was effective on
 17 or before July 1, 2019.

18 (g) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
 19 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must** ~~be~~
 20 recorded ~~(A)~~ not later than thirty (30) business days after the date the
 21 waiver was executed ~~and (B)~~ with the county recorder of the county
 22 where the property subject to the waiver is located. ~~(2) A waiver that~~
 23 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
 24 ~~years after the date the waiver is executed:~~ This subsection does not
 25 invalidate an annexation that was effective on or before July 1, 2019.

26 **(h) Notwithstanding any other law, a waiver of the right of**
 27 **remonstrance is valid and binding on a landowner or a successor**
 28 **in title only with regard to an annexation for which the annexation**
 29 **ordinance was adopted before May 15, 2021.**

30 SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.206-2016,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 1.5. (a) For purposes of this chapter, territory
 33 sought to be annexed may be considered "contiguous" only if at least
 34 one-eighth (1/8) of the aggregate external boundaries of the territory
 35 coincides with the boundaries of the annexing municipality. In
 36 determining if a territory is contiguous, a strip of land less than one
 37 hundred fifty (150) feet wide that connects the annexing municipality
 38 to the territory is not considered a part of the boundaries of either the
 39 municipality or the territory.

40 (b) This subsection applies to an annexation for which an
 41 annexation ordinance is adopted after June 30, 2015, **and before May**
 42 **15, 2021.** A public highway or the rights-of-way of a public highway



1 are contiguous to:
 2 (1) the municipality; or
 3 (2) property in the unincorporated area adjacent to the public
 4 highway or rights-of-way of a public highway;
 5 if the public highway or the rights-of-way of a public highway are
 6 contiguous under subsection (a) and one (1) of the requirements in
 7 subsection (c) is satisfied.

8 (c) **This subsection applies to an annexation for which an**
 9 **annexation ordinance is adopted after June 30, 2015, and before**
 10 **May 15, 2021.** A public highway or the rights-of-way of a public
 11 highway are not contiguous unless one (1) of the following
 12 requirements is met:

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

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

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

28 (3) All property adjacent to at least one (1) side of the entire
 29 length of the part of the public highway or rights-of-way of the
 30 public highway being annexed is part of the same annexation
 31 ordinance in which the public highway or rights-of-way of a
 32 public highway are being annexed.

33 A municipality may not annex a public highway or the rights-of-way of
 34 a public highway or annex territory adjacent to the public highway or
 35 rights-of-way of a public highway unless the requirements of this
 36 section are met.

37 SECTION 3. IC 36-4-3-1.7, AS AMENDED BY P.L.206-2016,
 38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 1.7. (a) This section applies only to an
 40 annexation ordinance adopted after June 30, 2015. This section does
 41 not apply to an annexation under section 5.1 of this chapter.

42 (b) Not earlier than six (6) months before a municipality introduces



1 an annexation ordinance, the municipality shall conduct an outreach
 2 program to inform citizens regarding the proposed annexation. For an
 3 annexation under section 3 or 4 of this chapter, the outreach program
 4 must conduct at least six (6) public information meetings regarding the
 5 proposed annexation. For an annexation under section 5 of this chapter,
 6 the outreach program must conduct at least three (3) public information
 7 meetings regarding the proposed annexation. The public information
 8 meetings must provide citizens with the following information:

9 (1) Maps showing the proposed boundaries of the annexation
 10 territory.

11 (2) Proposed plans for extension of capital and noncapital
 12 services in the annexation territory, including proposed dates of
 13 extension.

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

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

27 (1) The notice **to the landowner** must inform the landowner that
 28 the municipality is proposing to annex territory that includes the
 29 landowner's property.

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

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

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

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

40 (2) in accordance with this section;

41 it is not necessary that the landowner accept receipt of the notice.

42 (e) **This subsection applies only to an annexation for which an**



1 **annexation ordinance is adopted after June 30, 2015, and before**
 2 **May 15, 2021.** If a remonstrance is filed under section 11 of this
 3 chapter, the municipality shall file with the court proof that notices
 4 were sent to landowners under this section and proof of publication.

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

7 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This
 9 section does not apply to an annexation under section 4(a)(2), 4(a)(3),
 10 4(b), 4(h), or 4.1 of this chapter.

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

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

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

21 SECTION 5. IC 36-4-3-5, AS AMENDED BY P.L.149-2016,
 22 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 5. (a) This subsection applies only to a
 24 petition requesting annexation that is filed before July 1, 2015. If the
 25 owners of land located outside of but contiguous to a municipality want
 26 to have territory containing that land annexed to the municipality, they
 27 may file with the legislative body of the municipality a petition:

28 (1) signed by at least:

29 (A) fifty-one percent (51%) of the owners of land in the
 30 territory sought to be annexed; or

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

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

35 (b) This subsection applies only to a petition requesting annexation
 36 that is filed after June 30, 2015. **A municipality may not collect**
 37 **signatures on an annexation petition that is filed with the legislative**
 38 **body under this section after May 14, 2021.** If the owners of land
 39 located outside of but contiguous to a municipality want to have
 40 territory containing that land annexed to the municipality, they may file
 41 with the legislative body of the municipality a petition that meets the
 42 following requirements:



- 1 (1) The petition is signed by at least one (1) of the following:
 2 (A) Fifty-one percent (51%) of the owners of land in the
 3 territory sought to be annexed. An owner of land may not:
 4 (i) be counted in calculating the total number of owners of
 5 land in the annexation territory; or
 6 (ii) have the owner's signature counted;
 7 with regard to any single property that the owner has an
 8 interest in that was exempt from property taxes under
 9 IC 6-1.1-10 or any other state law for the immediately
 10 preceding year.
 11 (B) The owners of seventy-five percent (75%) of the total
 12 assessed value of the land for property tax purposes. Land that
 13 was exempt from property taxes under IC 6-1.1-10 or any
 14 other state law for the immediately preceding year may not be
 15 included in calculating the total assessed valuation of the land
 16 in the annexation territory. The court may not count an owner's
 17 signature on a petition with regard to any single property that
 18 the owner has an interest in that was exempt from property
 19 taxes under IC 6-1.1-10 or any other state law for the
 20 immediately preceding year.
 21 (2) The petition requests an ordinance annexing the area
 22 described in the petition.
 23 (c) The petition circulated by the landowners must include on each
 24 page where signatures are affixed a heading that is substantially similar
 25 to the following:
 26 "PETITION FOR ANNEXATION INTO THE (insert whether city
 27 or town) OF (insert name of city or town)."
 28 (d) If the legislative body fails to pass the ordinance within one
 29 hundred fifty (150) days after the date of filing of a petition under
 30 subsection (a) or (b), the petitioners may file a duplicate copy of the
 31 petition in the circuit or superior court of a county in which the territory
 32 is located, and shall include a written statement of why the annexation
 33 should take place. Notice of the proceedings, in the form of a
 34 summons, shall be served on the municipality named in the petition.
 35 The municipality is the defendant in the cause and shall appear and
 36 answer.
 37 (e) The court shall hear and determine the petition without a jury,
 38 and shall order the proposed annexation to take place only if the
 39 evidence introduced by the parties establishes that:
 40 (1) essential municipal services and facilities are not available to
 41 the residents of the territory sought to be annexed;
 42 (2) the municipality is physically and financially able to provide



- 1 municipal services to the territory sought to be annexed;
 2 (3) the population density of the territory sought to be annexed is
 3 at least three (3) persons per acre; and
 4 (4) the territory sought to be annexed is contiguous to the
 5 municipality.
 6 If the evidence does not establish all four (4) of the preceding factors,
 7 the court shall deny the petition and dismiss the proceeding.
 8 (f) This subsection does not apply to a town that has abolished town
 9 legislative body districts under IC 36-5-2-4.1. An ordinance adopted
 10 under this section must assign the territory annexed by the ordinance
 11 to at least one (1) municipal legislative body district.
 12 SECTION 6. IC 36-4-3-5.1, AS AMENDED BY P.L.160-2020,
 13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 5.1. (a) Owners of land that is located outside
 15 but contiguous to a municipality or that is located in territory described
 16 in section 4(i) of this chapter may file a petition with the legislative
 17 body of the municipality:
 18 (1) requesting an ordinance annexing the area described in the
 19 petition; and
 20 (2) signed by:
 21 (A) one hundred percent (100%) of the landowners that reside
 22 within the territory that is proposed to be annexed, in the case
 23 of a petition filed before July 1, 2015; and
 24 (B) in the case of a petition filed after June 30, 2015, one
 25 hundred percent (100%) of the owners of land within the
 26 territory that is proposed to be annexed.
 27 (b) Sections 2.1 and 2.2 of this chapter do not apply to an
 28 annexation under this section.
 29 (c) The petition circulated by the landowners must include on each
 30 page where signatures are affixed a heading that is substantially similar
 31 to the following:
 32 "PETITION FOR ANNEXATION INTO THE (insert whether city
 33 or town) OF (insert name of city or town)."
 34 (d) The municipality may:
 35 (1) adopt an annexation ordinance annexing the territory; and
 36 (2) adopt a fiscal plan and establish a definite policy by resolution
 37 of the legislative body;
 38 after the legislative body has held a public hearing on the proposed
 39 annexation.
 40 (e) The municipality may introduce and hold the public hearing on
 41 the annexation ordinance not later than thirty (30) days after the
 42 petition is filed with the legislative body. Notice of the public hearing



1 may be published one (1) time in accordance with IC 5-3-1 at least
 2 twenty (20) days before the hearing. All interested parties must have
 3 the opportunity to testify at the hearing as to the proposed annexation.

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

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

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

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

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

27 SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: **Sec. 5.5. (a) This section does not apply to an
 30 annexation under section 5 or 5.1 of this chapter.**

31 **(b) This section applies only to an annexation for which an
 32 annexation ordinance is adopted after May 14, 2021.**

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

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

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



- 1 **(B) in the territory proposed to be annexed; or**
- 2 **(2) the owners of more than seventy-five percent (75%) in**
- 3 **assessed valuation of land:**
- 4 **(A) not exempt from property taxes under IC 6-1.1-10 or**
- 5 **any other state law; and**
- 6 **(B) in the territory proposed to be annexed.**
- 7 **(d) The petition circulated by the municipality must include on**
- 8 **each page where signatures are affixed a heading that is**
- 9 **substantially similar to the following:**
- 10 **"PETITION FOR ANNEXATION INTO THE (insert**
- 11 **whether city or town) OF (insert name of city or town)."**
- 12 **(e) A landowner may withdraw the landowner's signature from**
- 13 **the petition not more than ten (10) days after the municipality**
- 14 **adopts the annexation ordinance by providing written notice to the**
- 15 **office of the clerk of the municipality. A landowner who withdraws**
- 16 **the landowner's signature from the petition is considered not to**
- 17 **have signed the petition for purposes of subsection (h)(2).**
- 18 **(f) The municipality must file the petition with the circuit or**
- 19 **superior court of the county where the municipality is located not**
- 20 **later than ninety (90) days after the publication of the annexation**
- 21 **ordinance under section 7 of this chapter. The petition must be**
- 22 **accompanied by:**
- 23 **(1) a copy of the ordinance; and**
- 24 **(2) the names and addresses of all persons who meet the**
- 25 **requirements of subsection (h).**
- 26 **(g) On receipt of the petition, the court shall determine whether**
- 27 **the petition has the necessary signatures. In determining the total**
- 28 **number of landowners of the territory proposed to be annexed and**
- 29 **whether signers of the petition are landowners, the names**
- 30 **appearing on the tax duplicate for that territory constitute prima**
- 31 **facie evidence of ownership. Only one (1) person having an interest**
- 32 **in each single property, as evidenced by the tax duplicate, is**
- 33 **considered a landowner for purposes of this section. A person is**
- 34 **entitled to sign a petition only one (1) time, regardless of whether**
- 35 **the person owns more than one (1) parcel of real property. If the**
- 36 **court determines that the municipality's petition has a sufficient**
- 37 **number of signatures, the court shall fix a time, not later than sixty**
- 38 **(60) days after its determination, for a hearing on the petition.**
- 39 **(h) A person may intervene as a party at the hearing described**
- 40 **in subsection (g) if the following requirements are satisfied:**
- 41 **(1) The person owns, solely or with another person, property**
- 42 **that is in the territory proposed to be annexed.**



1 (2) None of the owners of the property signed the petition filed
2 by the municipality.

3 (3) The person appeared in person or submitted a
4 remonstrance or other document objecting to the annexation
5 into the record of the municipality's hearing on the
6 annexation ordinance under section 2.1 of this chapter.

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

9 SECTION 8. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 5.6. (a) This section applies only to an
12 annexation for which an annexation ordinance is adopted after
13 May 14, 2021.

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

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

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

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

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

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

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

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

37 (g) If the signature of an individual does not substantially
38 conform with the signature of the individual in relevant county
39 records, the signature is considered invalid. In determining
40 whether a signature substantially conforms with the signature in
41 the relevant county records, consideration shall be given to
42 whether that lack of conformity may reasonably be attributed to



1 **the age, disability, or impairment of the individual.**

2 SECTION 9. IC 36-4-3-7, AS AMENDED BY P.L.236-2019,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 7. (a) After an ordinance is adopted under
5 section 3, 4, 5, or 5.1 of this chapter, it must be published in the
6 manner prescribed by IC 5-3-1.

7 **(b) This subsection applies only to an annexation for which an**
8 **annexation ordinance is adopted before May 15, 2021.** Except as
9 provided in subsection ~~(b)~~; (c), ~~(d)~~; or ~~(f)~~; **(e), or (g)**, in the absence of
10 remonstrance and appeal under section 11 or 15.5 of this chapter, the
11 ordinance takes effect at least ninety (90) days after its publication and
12 upon the filing required by section 22(a) of this chapter.

13 **(c) An annexation ordinance takes effect as follows:**

14 **(1) This subdivision applies to an annexation under section 5**
15 **of this chapter. Except as provided in subsection (e), in the**
16 **absence of an appeal under section 15.5 of this chapter, the**
17 **annexation ordinance takes effect at least ninety (90) days**
18 **after its publication and upon filing under section 22(a) of this**
19 **chapter.**

20 **(2) This subdivision applies to an annexation under section 5.1**
21 **of this chapter. Except as provided in subsection (e), in the**
22 **absence of an appeal under section 15.5 of this chapter, the**
23 **ordinance takes effect at least thirty (30) days after the**
24 **adoption of the ordinance and upon the filing under section**
25 **22(a) of this chapter.**

26 **(3) This subdivision applies to an annexation under section 5.5**
27 **of this chapter. Except as provided in subsection (e), if a final**
28 **and unappealable judgment under section 12 or 15.5 of this**
29 **chapter is entered in favor of the annexation, the annexation**
30 **is effective upon the filing under section 22(a) of this chapter.**

31 **(4) This subdivision applies to an annexation under section 7.1**
32 **of this chapter for which an annexation ordinance is adopted**
33 **after May 14, 2021. If a final and unappealable judgment**
34 **under section 12 or 15.5 of this chapter is entered in favor of**
35 **the annexation, the annexation is effective upon the filing**
36 **under section 22(a) of this chapter.**

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



1 ~~(e)~~ **(d)** Subsections ~~(d)~~ and ~~(e)~~ **(e)** and **(f)** apply to fire protection
 2 districts that are established after July 1, 1987, and to which subsection
 3 **(g)** does not apply. For the purposes of this section, territory that has
 4 been:

5 (1) added to an existing fire protection district under
 6 IC 36-8-11-11; or

7 (2) approved by ordinance of the county legislative body to be
 8 added to an existing fire protection district under IC 36-8-11-11,
 9 notwithstanding that the territory's addition to the fire protection
 10 district has not yet taken effect;

11 shall be considered a part of the fire protection district as of the date
 12 that the fire protection district was originally established.

13 ~~(d)~~ **Except as provided in subsection (b); (e)** Whenever a
 14 municipality annexes territory, all or part of which lies within a fire
 15 protection district (IC 36-8-11), the annexation ordinance in the
 16 absence of remonstrance and appeal under section 11 or 15.5 of this
 17 chapter **(in the case of an annexation for which an annexation**
 18 **ordinance is adopted before May 15, 2021) or in the absence of a**
 19 **hearing or an appeal under section 12 or 15.5 of this chapter (in the**
 20 **case of an annexation for which an annexation ordinance is**
 21 **adopted after May 14, 2021) takes effect the second January 1 that**
 22 **follows the date the ordinance is adopted and upon the filing required**
 23 **by section 22(a) of this chapter. Except in the case of an annexation to**
 24 **which subsection (g) applies, the municipality shall:**

25 (1) provide fire protection to that territory beginning the date the
 26 ordinance is effective; and

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

30 ~~(e)~~ **(f)** If the fire protection district from which a municipality
 31 annexes territory under subsection ~~(d)~~ **(e)** is indebted or has
 32 outstanding unpaid bonds or other obligations at the time the
 33 annexation is effective, the municipality is liable for and shall pay that
 34 indebtedness in the same ratio as the assessed valuation of the property
 35 in the annexed territory (that is part of the fire protection district) bears
 36 to the assessed valuation of all property in the fire protection district,
 37 as shown by the most recent assessment for taxation before the
 38 annexation, unless the assessed property within the municipality is
 39 already liable for the indebtedness. The annexing municipality shall
 40 pay its indebtedness under this section to the board of fire trustees. If
 41 the indebtedness consists of outstanding unpaid bonds or notes of the
 42 fire protection district, the payments to the board of fire trustees shall



1 be made as the principal or interest on the bonds or notes becomes due.

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

9 (g) Whenever a municipality annexes territory that lies within a fire
10 protection district that has a total net assessed value (as determined by
11 the county auditor) of more than one billion dollars (\$1,000,000,000)
12 on the date the annexation ordinance is adopted:

13 (1) the annexed area shall remain a part of the fire protection
14 district after the annexation takes effect; and

15 (2) the fire protection district shall continue to provide fire
16 protection services to the annexed area.

17 The municipality shall not tax the annexed territory for fire protection
18 services. The annexing municipality shall establish a special fire fund
19 for all fire protection services that are provided by the municipality
20 within the area of the municipality that is not within the fire protection
21 district, and which shall not be assessed to the annexed special taxing
22 district. The annexed territory that lies within the fire protection district
23 shall continue to be part of the fire protection district special taxing
24 district.

25 SECTION 10. IC 36-4-3-7.1, AS AMENDED BY P.L.257-2019,
26 SECTION 111, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) ~~Notwithstanding~~
28 ~~section 7(b) of this chapter~~; An ordinance adopted under section 4 or
29 5.1 of this chapter **that meets the conditions set forth in subsection**
30 **(b) takes effect as follows:**

31 **(1) In the case of an annexation for which an annexation**
32 **ordinance was adopted before May 15, 2021, the ordinance**
33 **takes effect** immediately:

34 (A) upon the expiration of the remonstrance and appeal period
35 under section 11, 11.1, or 15.5 of this chapter; and

36 (B) after the publication, filing, and recording required by
37 section 22(a) of this chapter. ~~if all of the following conditions~~
38 ~~are met:~~

39 **(2) In the case of an annexation for which an annexation**
40 **ordinance was adopted after May 14, 2021, the ordinance**
41 **takes effect as set forth in section 7(c)(4) of this chapter.**

42 **(b) This section applies to an annexation that meets all of the**



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following conditions:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

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

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

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

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

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



1 (d) This subsection applies only to an annexation for which an
 2 annexation ordinance was adopted after June 30, 2015, **and before**
 3 **May 15, 2021**. If the requirements of section 11.3(c) or (after
 4 December 31, 2016) section 11.4 of this chapter are met, the
 5 annexation may be appealed by filing with the circuit or superior court
 6 of a county in which the annexed territory is located:

- 7 (1) the signed remonstrances filed with the county auditor;
 8 (2) the county auditor's certification under section 11.2(i) of this
 9 chapter;
 10 (3) the annexation ordinance; and
 11 (4) a statement of the reason why the annexation should not take
 12 place.

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

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

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

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

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

35 SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
 36 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 11.1. (a) This section applies only to an
 38 annexation ordinance adopted after June 30, 2015, **and before May 15,**
 39 **2021.**

40 (b) After a municipality adopts an annexation ordinance in
 41 accordance with all applicable notice and hearing requirements under
 42 this chapter, the annexation may not proceed unless the annexing



- 1 municipality completes the procedures set forth in this section.
- 2 (c) The proper officers of the municipality must give notice of the
- 3 applicability of the remonstrance process by providing notice by:
- 4 (1) publication in accordance with IC 5-3-1; and
- 5 (2) first class mail or certified mail with return receipt requested,
- 6 or any other means of delivery that includes a return receipt;
- 7 to the circuit court clerk and to owners of real property described in
- 8 section 2.2 of this chapter. Notice under this section must be published
- 9 and mailed or delivered on the same date that notice of the adoption of
- 10 the annexation ordinance is published under section 7 of this chapter.
- 11 (d) The notice of the applicability of the remonstrance process under
- 12 subsection (c) must state the following:
- 13 (1) Any owners of real property within the area proposed to be
- 14 annexed who want to remonstrate against the proposed
- 15 annexation must complete and file remonstrance petitions in
- 16 compliance with this chapter. The notice must state:
- 17 (A) that remonstrance petitions must be filed not later than
- 18 ninety (90) days after the date that notice of the adoption of the
- 19 annexation ordinance was published under section 7 of this
- 20 chapter; and
- 21 (B) the last date in accordance with clause (A) that
- 22 remonstrance petitions must be filed with the county auditor
- 23 to be valid.
- 24 (2) A remonstrance petition may be signed at the locations
- 25 provided by the municipality under subsection (e). The notice
- 26 must provide the following information regarding each location:
- 27 (A) The address of the location.
- 28 (B) The dates and hours during which a remonstrance petition
- 29 may be signed at the location.
- 30 (e) Beginning the day after publication of the notice under
- 31 subsection (c) and ending not later than ninety (90) days after
- 32 publication of the notice under subsection (c), the municipality shall
- 33 provide both of the following:
- 34 (1) At least one (1) location in the offices of the municipality
- 35 where a person may sign a remonstrance petition during regular
- 36 business hours.
- 37 (2) At least one (1) additional location that is available for at least
- 38 five (5) days, where a person may sign a remonstrance petition.
- 39 The location must meet the following requirements:
- 40 (A) The location must be in a public building:
- 41 (i) owned or leased by the state or a political subdivision,
- 42 including a public library, community center, or parks and



- 1 recreation building; and
- 2 (ii) located within the boundaries of the municipality or the
- 3 annexation territory.
- 4 (B) The location must be open according to the following:
- 5 (i) On a day that the location is open on a weekday, the
- 6 location must be open at a minimum from 5 p.m. to 9 p.m.
- 7 (ii) On a day that the location is open on a Saturday or
- 8 Sunday, the location must be open at least four (4) hours
- 9 during the period from 9 a.m. to 5 p.m.
- 10 (f) An additional location may not be open on a day that is a legal
- 11 holiday. At any location and during the hours that a remonstrance
- 12 petition may be signed, the municipality shall have a person present:
- 13 (1) to witness the signing of remonstrance petitions; and
- 14 (2) who shall swear and affirm before a notary public that the
- 15 person witnessed each person sign the remonstrance petition.
- 16 SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016,
- 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an
- 19 annexation ordinance adopted after June 30, 2015, **and before May 15,**
- 20 **2021.**
- 21 (b) A remonstrance petition may be filed by an owner of real
- 22 property that:
- 23 (1) is within the area to be annexed;
- 24 (2) was not exempt from property taxes under IC 6-1.1-10 or any
- 25 other state law for the immediately preceding year; and
- 26 (3) is not subject to a valid waiver of remonstrance.
- 27 (c) A remonstrance petition must comply with the following in order
- 28 to be effective:
- 29 (1) Each signature on a remonstrance petition must be dated, and
- 30 the date of the signature may not be earlier than the date on which
- 31 the remonstrance forms may be issued by the county auditor
- 32 under subsection (e)(7).
- 33 (2) Each person who signs a remonstrance petition must indicate
- 34 the address of the real property owned by the person in the area
- 35 to be annexed.
- 36 (3) A remonstrance petition must be verified in compliance with
- 37 subsection (e).
- 38 (d) The state board of accounts shall design the remonstrance forms
- 39 to be used solely in the remonstrance process described in this section.
- 40 The state board of accounts shall provide the forms to the county
- 41 auditor in an electronic format that permits the county auditor to copy
- 42 or reproduce the forms using:



- 1 (1) the county auditor's own equipment; or
- 2 (2) a commercial copying service.
- 3 The annexing municipality shall reimburse the county auditor for the
- 4 cost of reproducing the remonstrance forms.
- 5 (e) The county auditor's office shall issue remonstrance forms
- 6 accompanied by instructions detailing all of the following
- 7 requirements:
- 8 (1) The closing date for the remonstrance period.
- 9 (2) Only one (1) person having an interest in each single property
- 10 as evidenced by the tax duplicate is considered an owner of
- 11 property and may sign a remonstrance petition. A person is
- 12 entitled to sign a petition only one (1) time in a remonstrance
- 13 process, regardless of whether the person owns more than one (1)
- 14 parcel of real property.
- 15 (3) An individual may not be:
- 16 (A) compensated for; or
- 17 (B) reimbursed for expenses incurred in;
- 18 circulating a remonstrance petition and obtaining signatures.
- 19 (4) The remonstrance petition may be executed in several
- 20 counterparts, the total of which constitutes the remonstrance
- 21 petition. An affidavit of the person circulating a counterpart must
- 22 be attached to the counterpart. The affidavit must state that each
- 23 signature appearing on the counterpart was affixed in the person's
- 24 presence and is the true and lawful signature of the signer. The
- 25 affidavit must be notarized.
- 26 (5) A remonstrance petition that is not executed in counterparts
- 27 must be verified by the person signing the petition in the manner
- 28 prescribed by the state board of accounts and notarized.
- 29 (6) A remonstrance petition may be delivered to the county
- 30 auditor's office in person or by:
- 31 (A) certified mail, return receipt requested; or
- 32 (B) any other means of delivery that includes a return receipt.
- 33 The remonstrance petition must be postmarked not later than the
- 34 closing date for the remonstrance period.
- 35 (7) The county auditor's office may not issue a remonstrance
- 36 petition earlier than the day that notice is published under section
- 37 11.1 of this chapter. The county auditor's office shall certify the
- 38 date of issuance on each remonstrance petition. Any person may
- 39 pick up additional copies of the remonstrance petition to
- 40 distribute to other persons.
- 41 (8) A person who signs a remonstrance petition may withdraw the
- 42 person's signature from a remonstrance petition before a



1 remonstrance petition is filed with the county auditor by filing a
 2 verified request to remove the person's name from the
 3 remonstrance petition. Names may not be added to a
 4 remonstrance petition after the remonstrance petition is filed with
 5 the county auditor.

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

14 (g) Not later than five (5) business days after receiving the
 15 remonstrance petition, the county auditor shall submit a copy of the
 16 remonstrance petition to the legislative body of the annexing
 17 municipality.

18 (h) Not later than fifteen (15) business days after the legislative
 19 body of the annexing municipality receives a copy of the remonstrance
 20 petition from the county auditor, the annexing municipality shall
 21 provide documentation to the county auditor regarding any valid waiver
 22 of the right of remonstrance that exists on the property within the
 23 annexation territory.

24 (i) Not later than fifteen (15) business days after receiving the
 25 documentation regarding any valid waiver of the right of remonstrance
 26 from the annexing municipality under subsection (h), if any, the county
 27 auditor's office shall make a final determination of the number of
 28 owners of real property within the territory to be annexed:

29 (1) who signed the remonstrance; and

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

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

37 SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015,
 38 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 11.3. (a) This section applies only to an
 40 annexation ordinance adopted after June 30, 2015, **and before May 15,**
 41 **2021.**

42 (b) An annexation ordinance is void if a written remonstrance



1 petition is signed by one (1) of the following:
2 (1) At least sixty-five percent (65%) of the owners of land in the
3 annexed territory. An owner of land may not:
4 (A) be counted in calculating the total number of owners of
5 land in the annexation territory; or
6 (B) have the owner's signature counted on a remonstrance;
7 with regard to any single property that an owner has an interest in
8 that was exempt from property taxes under IC 6-1.1-10 or any
9 other state law for the immediately preceding year.
10 (2) The owners of at least eighty percent (80%) in assessed
11 valuation of the land in the annexed territory. Land that was
12 exempt from property taxes under IC 6-1.1-10 or any other state
13 law for the immediately preceding year may not be included in
14 calculating the total assessed valuation of the land in the
15 annexation territory. The court may not count the owner's
16 signature on a remonstrance with regard to any single property
17 that the owner has an interest in that was exempt from property
18 taxes under IC 6-1.1-10 or any other state law for the immediately
19 preceding year.
20 (c) The annexation may be appealed to the court under section 11
21 of this chapter, if a written remonstrance is signed by one (1) of the
22 following:
23 (1) At least fifty-one percent (51%) but less than sixty-five
24 percent (65%) of the owners of land. An owner of land may not:
25 (A) be counted in calculating the total number of owners of
26 land in the annexation territory; or
27 (B) have the owner's signature counted on a remonstrance;
28 with regard to any single property that the owner has an interest
29 in that was exempt from property taxes under IC 6-1.1-10 or any
30 other state law for the immediately preceding year.
31 (2) The owners of at least sixty percent (60%) but less than eighty
32 percent (80%) in assessed valuation of land in the annexed
33 territory. Land that was exempt from property taxes under
34 IC 6-1.1-10 or any other state law for the immediately preceding
35 year may not be included in calculating the total assessed
36 valuation of the land in the annexation territory. The court may
37 not count an owner's signature on a remonstrance with regard to
38 any single property that the owner has an interest in that was
39 exempt from property taxes under IC 6-1.1-10 or any other state
40 law for the immediately preceding year.
41 SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015,
42 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 UPON PASSAGE]: Sec. 11.4. (a) This section applies only to an
 2 annexation that ~~the~~ meets all of the following requirements:
- 3 (1) The annexation ordinance is adopted after December 31,
 4 2016, **and before May 15, 2021.**
- 5 (2) Notwithstanding the contiguity requirements of section 1.5 of
 6 this chapter, at least one-tenth (1/10) of the aggregate external
 7 boundaries of the territory sought to be annexed coincides with
 8 the boundaries of:
- 9 (A) the municipality; and
 10 (B) the site of an economic development project.
- 11 (b) As used in this section, "economic development project" means
 12 any project developed by the municipality that meets all of the
 13 following requirements:
- 14 (1) The annexing municipality determines that the project will:
- 15 (A) promote significant opportunities for the gainful
 16 employment of its citizens;
 17 (B) attract a major new business enterprise to the municipality;
 18 or
 19 (C) retain or expand a significant business enterprise within
 20 the municipality.
- 21 (2) The project involves expenditures by the annexing
 22 municipality for any of the following:
- 23 (A) Land acquisition, interests in land, site improvements,
 24 infrastructure improvements, buildings, or structures.
 25 (B) Rehabilitation, renovation, and enlargement of buildings
 26 and structures.
 27 (C) Machinery, equipment, furnishings, or facilities.
 28 (D) Substance removal or remedial action.
- 29 (c) Notwithstanding section 11.3(b) of this chapter, even if a
 30 remonstrance has enough signatures to satisfy the requirements of
 31 section 11.3(b) of this chapter, the annexation ordinance is not void and
 32 may be appealed to the court under section 11 of this chapter, if all of
 33 the following requirements are met:
- 34 (1) The economic development project site needs the following
 35 capital services that the municipality is lawfully able to provide:
- 36 (A) water;
 37 (B) sewer;
 38 (C) gas; or
 39 (D) any combination of the capital services described in
 40 clauses (A) through (C).
- 41 (2) The municipality finds that it is in the municipality's best
 42 interest to annex the annexation territory in order to extend,



1 construct, or operate the capital services that are provided to the
2 economic development project site.

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

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

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

11 (d) If the economic development project:

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

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

16 the annexation territory is disannexed from the municipality and reverts
17 to the jurisdiction of the unit having jurisdiction before the annexation.

18 For purposes of this subsection, **a an** economic development project is
19 considered to have commenced on the day that the physical erection,
20 installation, alteration, repair, or remodeling of a building or structure
21 commences on the site of the economic development project.

22 SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a)** A
24 landowner in an unincorporated area is not required to grant a
25 municipality a waiver against remonstrance as a condition of
26 connection to a sewer or water service if all of the following conditions
27 apply:

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

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

33 **(b) Notwithstanding any other law, a waiver against**
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 May 15, 2021.**

37 SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015,
38 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 11.6. (a) This section applies to a
40 remonstrance filed after June 30, 2015, **and before May 15, 2021.**

41 (b) If the court orders an annexation not to take place after a hearing
42 under section 11 of this chapter, the remonstrators shall be reimbursed



1 by the annexing municipality for any reasonable attorney's fees,
2 including litigation expenses and appeal costs:

3 (1) that are incurred:

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

5 (B) in remonstrating against the annexation; and

6 (2) not to exceed thirty-seven thousand five hundred dollars
7 (\$37,500).

8 SECTION 18. IC 36-4-3-11.7, AS AMENDED BY P.L.257-2019,
9 SECTION 112, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: Sec. 11.7. (a) This subsection
11 applies to any deed recorded after June 30, 2015. This subsection
12 applies only to property that is subject to a remonstrance waiver. A
13 municipality shall, within a reasonable time after the recording of a
14 deed to property located within the municipality, provide written notice
15 to the property owner that a waiver of the right of remonstrance exists
16 with respect to the property.

17 (b) A remonstrance waiver executed before July 1, 2003, is void.
18 This subsection does not invalidate an annexation that was effective on
19 or before July 1, 2019.

20 (c) A remonstrance waiver executed after June 30, 2003, and before
21 July 1, 2019, is subject to the following:

22 (1) The waiver is void unless the waiver was recorded:

23 (A) before January 1, 2020; and

24 (B) with the county recorder of the county where the property
25 subject to the waiver is located.

26 (2) A waiver that is not void under subdivision (1) expires not
27 later than fifteen (15) years after the date the waiver is executed.

28 This subsection does not invalidate an annexation that was effective on
29 or before July 1, 2019.

30 (d) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
31 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must be**
32 ~~recorded~~ ~~(A) not later than thirty (30) business days after the date the~~
33 ~~waiver was executed~~ ~~and~~ ~~(B) with the county recorder of the county~~
34 ~~where the property subject to the waiver is located.~~ ~~(2) A waiver that~~
35 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
36 ~~years after the date the waiver is executed.~~ This subsection does not
37 invalidate an annexation that was effective on or before July 1, 2019.

38 **(e) Notwithstanding any other law, a remonstrance waiver is**
39 **effective and binding on a landowner or a successor in title only**
40 **with regard to an annexation for which the annexation ordinance**
41 **was adopted before May 15, 2021.**

42 SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,



1 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~(a)~~ The circuit or superior
 3 court shall:

4 (1) on the date fixed under:

5 (A) section 11 of this chapter **(in the case of an annexation**
 6 **for which an annexation ordinance is adopted before May**
 7 **15, 2021)**, hear and determine the remonstrance without a jury;

8 **or**

9 **(B) section 5.5 of this chapter (in the case of an annexation**
 10 **for which an annexation ordinance is adopted after May**
 11 **14, 2021), hear and determine the petition without a jury;**

12 and

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

16 ~~(b) If the court enters judgment in favor of the annexation, the~~
 17 ~~annexation may not take effect during the year preceding the year in~~
 18 ~~which a federal decennial census is conducted. An annexation that~~
 19 ~~would otherwise take effect during the year preceding a year in which~~
 20 ~~a federal decennial census is conducted takes effect January 1 of the~~
 21 ~~year in which a federal decennial census is conducted.~~

22 SECTION 20. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
 23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (e),
 25 at the hearing under section 12 of this chapter, the court shall order a
 26 proposed annexation to take place if the following requirements are
 27 met:

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

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

30 (3) The requirements of subsection (i) **(in the case of an**
 31 **annexation for which an annexation ordinance is adopted**
 32 **before May 15, 2021).**

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

35 (1) That the territory sought to be annexed is contiguous to the
 36 municipality.

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

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

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

41 (C) The territory is zoned for commercial, business, or
 42 industrial uses.



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

3 (1) That the territory sought to be annexed is:

4 (A) contiguous to the municipality as required by section 1.5
5 of this chapter, except that at least one-fourth (1/4), instead of
6 one-eighth (1/8), of the aggregate external boundaries of the
7 territory sought to be annexed must coincide with the
8 boundaries of the municipality; and

9 (B) needed and can be used by the municipality for its
10 development in the reasonably near future.

11 (2) This subdivision applies only to an annexation for which an
12 annexation ordinance is adopted after December 31, 2016, **and**
13 **before May 15, 2021**. That the territory sought to be annexed
14 involves an economic development project and the requirements
15 of section 11.4 of this chapter are met.

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

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

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

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

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

40 (5) That services of a capital improvement nature, including street
41 construction, street lighting, sewer facilities, water facilities, and
42 storm water drainage facilities, will be provided to the annexed



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

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

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

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

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

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

28 (B) The parcel identification number.

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

30 (D) The existence of a known waiver of the right to
 31 remonstrate on the parcel. This clause applies only to a fiscal
 32 plan prepared after June 30, 2016, **and before May 15, 2021.**

33 (e) At the hearing under section 12 of this chapter **with regard to**
 34 **an annexation for which an annexation ordinance was adopted**
 35 **before May 15, 2021**, the court shall do the following:

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

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

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



- 1 other than the municipality seeking the annexation:
 2 (i) Police and fire protection.
 3 (ii) Street and road maintenance.
 4 (B) The annexation will have a significant financial impact on
 5 the residents or owners of land. The court may not consider:
 6 (i) the personal finances; or
 7 (ii) the business finances;
 8 of a resident or owner of land. The personal and business
 9 financial records of the residents or owners of land, including
 10 state, federal, and local income tax returns, may not be subject
 11 to a subpoena or discovery proceedings.
 12 (C) The annexation is not in the best interests of the owners of
 13 land in the territory proposed to be annexed as set forth in
 14 subsection (f).
 15 (D) This clause applies only to an annexation for which an
 16 annexation ordinance is adopted before July 1, 2015. One (1)
 17 of the following opposes the annexation:
 18 (i) At least sixty-five percent (65%) of the owners of land in
 19 the territory proposed to be annexed.
 20 (ii) The owners of more than seventy-five percent (75%) in
 21 assessed valuation of the land in the territory proposed to be
 22 annexed.
 23 Evidence of opposition may be expressed by any owner of land
 24 in the territory proposed to be annexed.
 25 (E) This clause applies only to an annexation for which an
 26 annexation ordinance is adopted after June 30, 2015, **and**
 27 **before May 15, 2021**. One (1) of the following opposes the
 28 annexation:
 29 (i) At least fifty-one percent (51%) of the owners of land in
 30 the territory proposed to be annexed.
 31 (ii) The owners of more than sixty percent (60%) in assessed
 32 valuation of the land in the territory proposed to be annexed.
 33 The remonstrance petitions filed with the court under section
 34 11 of this chapter are evidence of the number of owners of
 35 land that oppose the annexation, minus any written revocations
 36 of remonstrances that are filed with the court under section 11
 37 of this chapter.
 38 (F) This clause applies only to an annexation for which an
 39 annexation ordinance is adopted before July 1, 2015. This
 40 clause applies only to an annexation in which eighty percent
 41 (80%) of the boundary of the territory proposed to be annexed
 42 is contiguous to the municipality and the territory consists of



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

5 **(f) This subsection applies only to an annexation for which an**
 6 **annexation ordinance is adopted before May 15, 2021.** The
 7 municipality under subsection (e)(2)(C) bears the burden of proving
 8 that the annexation is in the best interests of the owners of land in the
 9 territory proposed to be annexed. In determining this issue, the court
 10 may consider whether the municipality has extended sewer or water
 11 services to the entire territory to be annexed:

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

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

19 (g) The most recent:

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

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

27 (h) A municipality that prepares a fiscal plan after June 30, 2015,
 28 must comply with this subsection. A municipality may not amend the
 29 fiscal plan after the date that:

- 30 **(1) a remonstrance is filed with the court under section 11 of this**
 31 **chapter (in the case of an annexation for which an annexation**
 32 **ordinance was adopted before May 15, 2021); or**
 33 **(2) a petition is filed with the court under section 5.5 of this**
 34 **chapter (in the case of an annexation for which an annexation**
 35 **ordinance was adopted after May 14, 2021);**

36 unless amendment of the fiscal plan is consented to by ~~at least~~
 37 ~~sixty-five percent (65%)~~ of the persons who signed the remonstrance
 38 **or the petition.**

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

- 41 ~~(A)~~ **(1) the outreach program requirements and notice**
 42 **requirements of section 1.7 of this chapter; and**



1 ~~(B)~~ **(2)** the requirements of section 11.1 of this chapter **(in the**
 2 **case of an annexation for which an annexation ordinance was**
 3 **adopted after June 30, 2015, and before May 15, 2021).**

4 SECTION 21. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
 5 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 15. (a) The court's judgment under section 12
 7 or 15.5 of this chapter must specify the annexation ordinance. ~~on which~~
 8 ~~the remonstrance is based.~~ The clerk of the court shall deliver a
 9 certified copy of the final and unappealable judgment to the clerk of the
 10 municipality. The clerk of the municipality shall:

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

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

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

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

- 24 (1) less than sixty-one (61) days after the publication of the
 25 ordinance under section 7(a) of this chapter; and
 26 (2) before the hearing commences:

27 **(A) on the remonstrance under section 11(c) of this chapter (in**
 28 **the case of an annexation for which an annexation**
 29 **ordinance is adopted before May 15, 2021); or**

30 **(B) on the petition under section 12 of this chapter (in the**
 31 **case of an annexation for which an annexation ordinance**
 32 **is adopted after May 14, 2021).**

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

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

- 40 (1) at least sixty-one (61) days but not more than one hundred
 41 twenty (120) days after the publication of the ordinance under
 42 section 7(a) of this chapter; and



1 (2) before the hearing commences:

2 (A) on the remonstrance under section 11(c) of this chapter (**in**
3 **the case of an annexation for which an annexation**
4 **ordinance is adopted before May 15, 2021); or**

5 (B) on the petition under section 12 of this chapter (**in the**
6 **case of an annexation for which an annexation ordinance**
7 **is adopted after May 14, 2021).**

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

13 (e) This subsection applies if a municipality repeals the annexation
14 ordinance:

15 (1) either:

16 (A) at least one hundred twenty-one (121) days after
17 publication of the ordinance under section 7(a) of this chapter
18 but before the hearing commences:

19 (i) on the remonstrance under section 11(c) of this chapter
20 (**in the case of an annexation for which an annexation**
21 **ordinance is adopted before May 15, 2021); or**

22 (ii) on the petition under section 12 of this chapter (**in the**
23 **case of an annexation for which an annexation ordinance**
24 **is adopted after May 14, 2021).**

25 (B) after the hearing commences:

26 (i) on the remonstrance as set forth in section 11(c) of this
27 chapter (**in the case of an annexation for which an**
28 **annexation ordinance is adopted before May 15, 2021);**
29 **or**

30 (ii) on the petition under section 12 of this chapter (**in the**
31 **case of an annexation for which an annexation ordinance**
32 **is adopted after May 14, 2021); and**

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

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

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

42 SECTION 22. IC 36-4-3-15.3, AS AMENDED BY P.L.156-2020,

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1 SECTION 138, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: Sec. 15.3. (a) As used in this
 3 section, "prohibition against annexation" means that a municipality
 4 may not make further attempts to annex certain territory or any part of
 5 that territory.

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

9 (c) Under a settlement agreement between the annexing
 10 municipality and either:

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

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

16 the parties may mutually agree to a prohibition against annexation of
 17 all or part of the territory by the municipality for a period not to exceed
 18 twenty (20) years. The settlement agreement may address issues and
 19 bind the parties to matters relating to the provision by a municipality
 20 of planned services of a noncapital nature and services of a capital
 21 improvement nature (as described in section 13(d) of this chapter), in
 22 addition to a prohibition against annexation. The settlement agreement
 23 is binding upon the successors, heirs, and assigns of the parties to the
 24 agreement. However, the settlement agreement may be amended or
 25 revised periodically on further agreement between the annexing
 26 municipality and landowners who meet the qualifications of
 27 subdivision (1) or (2).

28 **(d) A settlement agreement executed after May 14, 2021, is void.**

29 SECTION 23. IC 36-4-3-15.5, AS AMENDED BY P.L.207-2014,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 15.5. (a) Except as provided in subsection (b):

32 (1) an owner of land within one-half (1/2) mile of territory
 33 proposed to be annexed under this chapter; or

34 (2) a municipality located in the same county as the territory
 35 proposed to be annexed;

36 may, not later than sixty (60) days after the publication of the
 37 annexation ordinance, appeal that annexation to a circuit court or
 38 superior court of a county in which the annexed territory is located. The
 39 complaint must state that the reason the annexation should not take
 40 place is that the territory sought to be annexed is not contiguous to the
 41 annexing municipality.

42 (b) This subsection applies to an annexation initiated by property



1 owners under section 5.1 of this chapter in which all property owners
 2 within the area to be annexed petition the municipality to be annexed.
 3 Either of the following may appeal that annexation to a circuit court or
 4 superior court of a county in which the annexed territory is located:

5 (1) An owner of land within one-half (1/2) mile of the territory
 6 proposed to be annexed under this chapter.

7 (2) A municipality located in the same county as the territory
 8 proposed to be annexed.

9 An appeal under this subsection must be filed not later than thirty (30)
 10 days after the publication of the annexation ordinance. The complaint
 11 must state that the reason the annexation should not take place is that
 12 the territory sought to be annexed is not contiguous to the annexing
 13 municipality.

14 (c) Upon the determination of the court that the complaint is
 15 sufficient, the judge shall fix a time for a hearing to be held not later
 16 than sixty (60) days after the determination. Notice of the proceedings
 17 shall be served by summons upon the proper officers of the annexing
 18 municipality. The municipality shall become a defendant in the cause
 19 and be required to appear and answer. The judge of the circuit or
 20 superior court shall, upon the date fixed, proceed to hear and determine
 21 the appeal without a jury, and shall, without delay, give judgment upon
 22 the question of the annexation according to the evidence introduced by
 23 the parties. If the evidence establishes that the territory sought to be
 24 annexed is contiguous to the annexing municipality, the court shall
 25 deny the appeal and dismiss the proceeding. If the evidence does not
 26 establish the foregoing factor, the court shall issue an order to prevent
 27 the proposed annexation from taking effect. The laws providing for
 28 change of venue from the county do not apply, but changes of venue
 29 from the judge may be had. Costs follow judgment. Pending the appeal,
 30 and during the time within which the appeal may be taken, the territory
 31 sought to be annexed is not a part of the annexing municipality.

32 (d) If the court enters a judgment in favor of the municipality, the
 33 annexation may not take effect during the year preceding a year in
 34 which a federal decennial census is conducted. An annexation that
 35 would otherwise take effect during the year preceding a year in which
 36 a federal decennial census is conducted takes effect January 1 of the
 37 year in which a federal decennial census is conducted.

38 SECTION 24. IC 36-4-3-19, AS AMENDED BY P.L.113-2010,
 39 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) If disannexation is
 41 ordered under this chapter by the works board of a municipality and no
 42 appeal is taken, the clerk of the municipality shall, without



1 compensation and not later than ten (10) days after the order is made,
 2 make and certify a complete transcript of the disannexation
 3 proceedings to the auditor of each county in which the disannexed lots
 4 or lands lie and to the office of the secretary of state. The county
 5 auditor shall list those lots or lands appropriately for taxation. The
 6 proceedings of the works board shall not be certified to the county
 7 auditor or to the office of the secretary of state if an appeal to the
 8 circuit court has been taken.

9 (b) In all proceedings begun in or appealed to the circuit court, if
 10 vacation or disannexation is ordered, the clerk of the court shall
 11 immediately after the judgment of the court, or after a decision on
 12 appeal to the supreme court or court of appeals if the judgment on
 13 appeal is not reversed, certify the judgment of the circuit court, as
 14 affirmed or modified, to each of the following:

- 15 (1) The auditor of each county in which the lands or lots affected
 16 lie, on receipt of one dollar (\$1) for the making and certifying of
 17 the transcript from the petitioners for the disannexation.
- 18 (2) The office of the secretary of state.
- 19 (3) The circuit court clerk of each county in which the lands or
 20 lots affected are located.
- 21 (4) The county election board of each county in which the lands
 22 or lots affected are located.
- 23 (5) If a board of registration exists, the board of each county in
 24 which the lands or lots affected are located.
- 25 (6) The office of census data established by IC 2-5-1.1-12.2.

26 (c) The county auditor shall forward a list of lots or lands
 27 disannexed under this section to the following:

- 28 (1) The county highway department of each county in which the
 29 lands or lots affected are located.
- 30 (2) The county surveyor of each county in which the lands or lots
 31 affected are located.
- 32 (3) Each plan commission, if any, that lost or gained jurisdiction
 33 over the disannexed territory.
- 34 (4) The township trustee of each township that lost or gained
 35 jurisdiction over the disannexed territory.
- 36 (5) The sheriff of each county in which the lands or lots affected
 37 are located.
- 38 (6) The office of the secretary of state.
- 39 (7) The office of census data established by IC 2-5-1.1-12.2.

40 The county auditor may require the clerk of the municipality to furnish
 41 an adequate number of copies of the list of disannexed lots or lands or
 42 may charge the clerk a fee for photoreproduction of the list.



1 (d) A disannexation described by this section takes effect upon the
2 clerk of the municipality filing the order with:

3 (1) the county auditor of each county in which the annexed
4 territory is located; and

5 (2) the circuit court clerk, or if a board of registration exists, the
6 board of each county in which the annexed territory is located.

7 (e) The clerk of the municipality shall notify the office of the
8 secretary of state and the office of census data established by
9 IC 2-5-1.1-12.2 of the date a disannexation is effective under this
10 chapter.

11 (f) ~~A disannexation order under this chapter may not take effect
12 during the year preceding a year in which a federal decennial census is
13 conducted. A disannexation order that would otherwise take effect
14 during the year preceding a year in which a federal decennial census is
15 conducted takes effect January 1 of the year in which a federal
16 decennial census is conducted.~~

17 SECTION 25. IC 36-4-3-22, AS AMENDED BY P.L.228-2015,
18 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall file:

20 (1) each annexation ordinance: ~~against which:~~

21 (A) **against which:**

22 (i) a remonstrance **(in the case of an annexation for which
23 an annexation ordinance is adopted before May 15,
24 2021);** or

25 (ii) an appeal;

26 has not been filed during the period permitted under this
27 chapter; or

28 (B) **against which** a remonstrance was filed without a
29 sufficient number of signatures to meet the requirements of
30 section 11.3(c) of this chapter, in the case of an annexation for
31 which an annexation ordinance was adopted after June 30,
32 2015, **and before May 15, 2021;** or

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

35 with the county auditor, circuit court clerk, and board of registration (if
36 a board of registration exists) of each county in which the annexed
37 territory is located, the office of the secretary of state, and the office of
38 census data established by IC 2-5-1.1-12.2. The clerk of the
39 municipality shall record each annexation ordinance adopted under this
40 chapter in the office of the county recorder of each county in which the
41 annexed territory is located.

42 (b) The ordinance or judgment must be filed and recorded no later



- 1 than ninety (90) days after:
- 2 (1) the expiration of the period permitted for:
- 3 (A) a remonstrance **(in the case of an annexation for which**
- 4 **an annexation ordinance is adopted before May 15, 2021);**
- 5 or
- 6 **(B) an appeal under section 15.5 of this chapter;**
- 7 (2) the delivery of a certified order under section 15 of this
- 8 chapter; or
- 9 (3) the date the county auditor files the written certification with
- 10 the legislative body under section 11.2 of this chapter, in the case
- 11 of an annexation:
- 12 (A) described in subsection (a)(1)(B); **and**
- 13 **(B) for which an annexation ordinance is adopted before**
- 14 **May 15, 2021.**
- 15 (c) Failure to record the annexation ordinance as provided in
- 16 subsection (a) does not invalidate the ordinance.
- 17 (d) The county auditor shall forward a copy of any annexation
- 18 ordinance filed under this section to the following:
- 19 (1) The county highway department of each county in which the
- 20 lots or lands affected are located.
- 21 (2) The county surveyor of each county in which the lots or lands
- 22 affected are located.
- 23 (3) Each plan commission, if any, that lost or gained jurisdiction
- 24 over the annexed territory.
- 25 (4) The sheriff of each county in which the lots or lands affected
- 26 are located.
- 27 (5) The township trustee of each township that lost or gained
- 28 jurisdiction over the annexed territory.
- 29 (6) The office of the secretary of state.
- 30 (7) The office of census data established by IC 2-5-1.1-12.2.
- 31 (e) The county auditor may require the clerk of the municipality to
- 32 furnish an adequate number of copies of the annexation ordinance or
- 33 may charge the clerk a fee for photoreproduction of the ordinance. The
- 34 county auditor shall notify the office of the secretary of state and the
- 35 office of census data established by IC 2-5-1.1-12.2 of the date that the
- 36 annexation ordinance is effective under this chapter.
- 37 (f) The county auditor or county surveyor shall, upon determining
- 38 that an annexation ordinance has become effective under this chapter,
- 39 indicate the annexation upon the property taxation records maintained
- 40 in the office of the auditor or the office of the county surveyor.
- 41 SECTION 26. IC 36-4-7-7 IS AMENDED TO READ AS
- 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fiscal



1 officer shall present the report of budget estimates to the city legislative
 2 body under IC 6-1.1-17. After reviewing the report, the legislative body
 3 shall prepare an ordinance fixing the rate of taxation for the ensuing
 4 budget year and an ordinance making appropriations for the estimated
 5 department budgets and other city purposes during the ensuing budget
 6 year. The legislative body, in the appropriation ordinance, may reduce
 7 any estimated item from the figure submitted in the report of the fiscal
 8 officer, but it may increase an item only if the executive recommends
 9 an increase. The legislative body shall promptly act on the
 10 appropriation ordinance.

11 (b) In preparing the ordinances described in subsection (a), the
 12 legislative body shall make an allowance for the cost of fire protection
 13 to annexed territory described in ~~IC 36-4-3-7(d)~~, **IC 36-4-3-7(e)** for the
 14 year fire protection is first offered to that territory.

15 SECTION 27. IC 36-9-22-2, AS AMENDED BY P.L.156-2020,
 16 SECTION 148, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The power of the
 18 municipal works board to fix the terms of a contract under this section
 19 applies to contracts for the installation of sewage works that have not
 20 been finally approved or accepted for full maintenance and operation
 21 by the municipality on July 1, 1979.

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

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

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

34 of a fair pro rata share of the cost of the construction of the sewage
 35 works, subject to the rules of the board and notwithstanding any other
 36 law relating to the functions of local governmental entities. However,
 37 the contract does not apply to any owner of real property who is not a
 38 party to the contract unless the contract or (after June 30, 2013) a
 39 signed memorandum of the contract has been recorded in the office of
 40 the recorder of the county in which the real property of the owner is
 41 located before the owner taps into or connects to the sewers and
 42 facilities. The board may provide that the fair pro rata share of the cost



1 of construction includes interest at a rate not exceeding the amount of
 2 interest allowed on judgments, and the interest shall be computed from
 3 the date the sewage works are approved until the date payment is made
 4 to the municipality.

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

7 (1) the parties to the contract; and

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

9 to remonstrate against pending or future annexations by the
 10 municipality of the area served by the sewage works. Any person
 11 tapping into or connecting to the sewage works contracted for is
 12 considered to waive the person's rights to remonstrate against the
 13 annexation of the area served by the sewage works.

14 (d) Notwithstanding subsection (c), the works board of a
 15 municipality may waive the provisions of subsection (c) in the contract
 16 if:

17 (1) the works board considers a waiver of subsection (c) to be in
 18 the best interests of the municipality; or

19 (2) the contract involves connection to the sewage works under
 20 IC 36-9-22.5.

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

28 (1) has actual notice of the release; or

29 (2) has constructive notice of the release because the contract, or
 30 a signed memorandum of the contract stating the release, has been
 31 recorded in the chain of title of the property.

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

34 (1) The landowner is required to connect to the sewage works
 35 because a person other than the landowner has polluted or
 36 contaminated the area.

37 (2) The costs of extension of or connection to the sewage works
 38 are paid by a person other than the landowner or the municipality.

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



1 that provides sewage service to the landowner.

2 (h) 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 provide written notice to
5 any successor in title to property within a reasonable time after the
6 deed is recorded, that a waiver of the right of remonstrance exists with
7 respect to the property.

8 (i) A remonstrance waiver executed on or before July 1, 2003, is
9 void. This subsection does not invalidate an annexation that was
10 effective on or before July 1, 2019.

11 (j) A remonstrance waiver executed after June 30, 2003, and not
12 later than June 30, 2019, is subject to the following:

13 (1) The waiver is void unless the waiver was recorded:

14 (A) before January 1, 2020; and

15 (B) with the county recorder of the county where the property
16 subject to the waiver is located.

17 (2) A waiver that is not void under subdivision (1) **or subsection**
18 **(l)** expires not later than fifteen (15) years after the date the
19 waiver is executed.

20 This subsection does not invalidate an annexation that was effective on
21 or before July 1, 2019.

22 (k) A remonstrance waiver executed after June 30, 2019, is ~~subject~~
23 ~~to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must be**
24 recorded ~~(A)~~ not later than thirty (30) business days after the date the
25 waiver was executed and ~~(B)~~ with the county recorder of the county
26 where the property subject to the waiver is located. ~~(2) A waiver that~~
27 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
28 ~~years after the date the waiver is executed.~~ This subsection does not
29 invalidate an annexation that was effective on or before July 1, 2019.

30 **(l) Notwithstanding any other law, a remonstrance waiver is**
31 **effective and binding on a landowner or a successor in title to a**
32 **party to the contract only with regard to an annexation for which**
33 **the annexation ordinance was adopted before May 15, 2021.**

34 SECTION 28. IC 36-9-25-14, AS AMENDED BY P.L.156-2020,
35 SECTION 149, IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) As to each municipality
37 to which this chapter applies:

38 (1) all the territory included within the corporate boundaries of
39 the municipality; and

40 (2) any territory, town, addition, platted subdivision, or unplatted
41 land lying outside the corporate boundaries of the municipality
42 that has been taken into the district in accordance with a prior



1 statute, the sewage or drainage of which discharges into or
2 through the sewage system of the municipality;
3 constitutes a special taxing district for the purpose of providing for the
4 sanitary disposal of the sewage of the district in a manner that protects
5 the public health and prevents the undue pollution of watercourses of
6 the district.

7 (b) Upon request by:

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

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

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

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

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

39 (e) In addition, a person owning or occupying real property outside
40 the district may enter into a sewer service agreement with the board for
41 connection to the sewage works of the district. If the agreement
42 provides for connection at a later time, the date or the event upon



1 which the service commences shall be stated in the agreement. The
 2 agreement may impose any conditions for connection that the board
 3 determines. The agreement must also provide the amount of service
 4 charge to be charged for connection if the persons are not covered
 5 under section 11 of this chapter, with the amount to be fixed by the
 6 board in its discretion and without a hearing.

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

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

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

36 (h) This subsection does not affect any rights or liabilities accrued
 37 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 38 proceedings continue and shall be imposed and enforced under prior
 39 law as if this subsection had not been enacted. For contracts executed
 40 after June 30, 2013, a waiver of the right to remonstrate under
 41 subsection (g) that is not void under subsection (m), (n), or (o) is
 42 binding as to an executor, administrator, heir, devisee, grantee,



1 successor, or assign of a party to a sewer service agreement under
 2 subsection (g) only if the executor, administrator, heir, devisee,
 3 grantee, successor, or assign:

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

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

9 (i) This section does not affect any sewer service agreements
 10 entered into before March 13, 1953. However, this section applies to
 11 a remonstrance waiver regardless of when the waiver was executed.

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

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

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

20 (k) This subsection applies to any deed recorded after June 30,
 21 2015. This subsection applies only to property that is subject to a
 22 remonstrance waiver. A municipality shall provide written notice to
 23 any successor in title to property within a reasonable time after the
 24 deed is recorded, that a waiver of the right of remonstrance has been
 25 granted with respect to the property.

26 (l) The board may waive the waiver provision described in
 27 subsection (g) in a sewer service agreement made under subsection (e)
 28 if the sewer service agreement involves a connection to the district's
 29 sewage works under IC 36-9-22.5.

30 (m) A remonstrance waiver executed before July 1, 2003, is void.
 31 This subsection does not invalidate an annexation that was effective on
 32 or before July 1, 2019.

33 (n) A remonstrance waiver executed after June 30, 2003, and before
 34 July 1, 2019, is subject to the following:

35 (1) The waiver is void unless the waiver was recorded:

36 (A) before January 1, 2020; and

37 (B) with the county recorder of the county where the property
 38 subject to the waiver is located.

39 (2) A waiver that is not void under subdivision (1) **or subsection**
 40 **(p)** expires not later than fifteen (15) years after the date the
 41 waiver is executed.

42 This subsection does not invalidate an annexation that was effective on



1 or before July 1, 2019.
2 (o) A remonstrance waiver executed after June 30, 2019, is subject
3 to the following: ~~(1) The waiver is void unless the waiver is~~ **must be**
4 recorded ~~(A)~~ not later than thirty (30) business days after the date the
5 waiver was executed and ~~(B)~~ with the county recorder of the county
6 where the property subject to the waiver is located. ~~(2) A waiver that~~
7 ~~is not void under subdivision (1) expires not later than fifteen (15)~~
8 ~~years after the date the waiver is executed.~~ This subsection does not
9 invalidate an annexation that was effective on or before July 1, 2019.
10 (p) **Notwithstanding any other law, a remonstrance waiver is**
11 **effective and binding on a landowner or a successor in title to a**
12 **party to the contract only with regard to an annexation for which**
13 **the annexation ordinance was adopted before May 15, 2021.**
14 SECTION 29. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 95, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 95 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 2

