



Reprinted  
January 28, 2014

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## SENATE BILL No. 273

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DIGEST OF SB 273 (Updated January 27, 2014 3:37 pm - DI 73)

**Citations Affected:** IC 36-4.

**Synopsis:** Approval of annexation agreements. Establishes requirements for an agreement executed and recorded after June 30, 2014, between a municipality and owners of real property, if all or part of the consideration for the agreement is that the owners agree to the annexation of their property or agree not to remonstrate or withdraw a remonstrance against an annexation by the municipality. Specifies that an annexation remonstrance may specify the persons who have been appointed by the remonstrators for purposes of signing agreements on behalf of the remonstrators. Provides that an agreement subject to the provisions in the bill must be signed by at least two representatives of the property owners, including at least one representative who: (1) is appointed from among the owners of real property who are parties to the agreement; and (2) is named as a representative in the remonstrance or in another petition or motion filed with the court. Requires that the date the signature was made must be written next to the signature. Requires that the agreement must be recorded with the county recorder of the county where the municipality is located after the agreement is executed and if a remonstrance has been filed, after the agreement has been approved by the court. Specifies that the provisions in the bill do not apply to a contract entered into by a municipal works board and a property owner concerning sewer construction and installation.

**Effective:** July 1, 2014.

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## Buck

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January 13, 2014, read first time and referred to Committee on Local Government.  
January 16, 2014, reported favorably — Do Pass.  
January 21, 2014, ordered engrossed; returned to second reading.  
January 27, 2014, re-read, amended, ordered engrossed.

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SB 273—LS 6808/DI 87





Reprinted  
January 28, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE BILL No. 273

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]: Sec. 11. (a) Except as provided in section 5.1(i) of this  
4 chapter and subsections (d) and (e), whenever territory is annexed by  
5 a municipality under this chapter, the annexation may be appealed by  
6 filing with the circuit or superior court of a county in which the  
7 annexed territory is located a written remonstrance signed by:  
8 (1) at least sixty-five percent (65%) of the owners of land in the  
9 annexed territory; or  
10 (2) the owners of more than seventy-five percent (75%) in  
11 assessed valuation of the land in the annexed territory.  
12 The remonstrance must be filed within ninety (90) days after the  
13 publication of the annexation ordinance under section 7 of this chapter,  
14 must be accompanied by a copy of that ordinance, and must state the  
15 reason why the annexation should not take place. **The remonstrance**  
16 **may specify the person or persons who have been appointed by the**

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1 **remonstrators for purposes of section 21.5(c)(2)(B) of this chapter.**  
 2 **The remonstrance may be amended as necessary if there is a**  
 3 **change in the person or persons who have been appointed by the**  
 4 **remonstrators for purposes of section 21.5(c)(2)(B) of this chapter.**

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

13 (c) If the court determines that the remonstrance is sufficient, it shall  
 14 fix a time, within sixty (60) days of its determination, for a hearing on  
 15 the remonstrance. Notice of the proceedings, in the form of a summons,  
 16 shall be served on the annexing municipality. The municipality is the  
 17 defendant in the cause and shall appear and answer.

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

22 (e) This subsection applies if:

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

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

32 SECTION 2. IC 36-4-3-21.5 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 34 1, 2014]: **Sec. 21.5. (a) This section applies only to an agreement**  
 35 **executed and recorded after June 30, 2014. This section does not**  
 36 **apply to a contract under IC 36-9-22.**

37 (b) **This section applies to an agreement between a municipality**  
 38 **and owners of real property, if all or part of the consideration for**  
 39 **the agreement is that the owners of the real property agree to:**

- 40 (1) **the annexation of the owners' real property by the**  
 41 **municipality; or**  
 42 (2) **not remonstrate or withdraw a remonstrance against the**



- 1           annexation of the owners' real property by the municipality.  
2           **(c) In order to be valid, an agreement must meet the following**  
3 **requirements:**  
4           **(1) The agreement must be recorded with the county recorder**  
5 **of the county where the municipality is located:**  
6           **(A) after the agreement is executed as required under this**  
7 **section; and**  
8           **(B) if a remonstrance has been filed under section 11 of**  
9 **this chapter, after the agreement is approved by the court**  
10 **in which the remonstrance was filed.**  
11          **(2) The agreement must be signed by:**  
12          **(A) the owners of real property who are parties to the**  
13 **agreement; or**  
14          **(B) at least two (2) representatives of the owners of real**  
15 **property who are parties to the agreement, including at**  
16 **least one (1) representative who:**  
17           **(i) is appointed from among the owners of real property**  
18 **who are parties to the agreement; and**  
19           **(ii) is named as a representative in the remonstrance as**  
20 **provided in section 11(a) of this chapter or is otherwise**  
21 **named as a representative in a petition or motion filed**  
22 **with the court;**  
23          **as of the date the agreement is recorded under subdivision (1).**  
24          **The date each signature was made must be written next to the**  
25 **signature.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 273, 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 273 as introduced.)

Committee Vote: Yeas 8, Nays 0

Senator Head, Chairperson

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 SENATE MOTION

Madam President: I move that Engrossed Senate Bill 273, which is eligible for third reading, be returned to second reading for purposes of amendment.

BUCK

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 SENATE MOTION

Madam President: I move that Senate Bill 273 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-11, AS AMENDED BY P.L.111-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsections (d) and (e), 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

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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. **The remonstrance may specify the person or persons who have been appointed by the remonstrators for purposes of section 21.5(c)(2)(B) of this chapter. The remonstrance may be amended as necessary if there is a change in the person or persons who have been appointed by the remonstrators for purposes of section 21.5(c)(2)(B) of this chapter.**

(b) 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) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

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

(e) This subsection applies if:

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

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

Page 1, line 4, after "2014." insert "**This section does not apply to a contract under IC 36-9-22.**".

Page 2, delete lines 8 through 9, begin a new line double block indented and insert:

**"(B) at least two (2) representatives of the owners of real**



**property who are parties to the agreement, including at least one (1) representative who:**

- (i) is appointed from among the owners of real property who are parties to the agreement; and**
- (ii) is named as a representative in the remonstrance as provided in section 11(a) of this chapter or is otherwise named as a representative in a petition or motion filed with the court."**

Renumber all SECTIONS consecutively.

(Reference is to SB 273 as printed January 17, 2014.)

BUCK

