



PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1561 be amended to read as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 36-1-3-9 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The area inside  
5       the boundaries of a county comprises its territorial jurisdiction.  
6       However, a municipality has exclusive jurisdiction over bridges  
7       (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses,  
8       sewers, drains, and public grounds inside its corporate boundaries,  
9       unless a statute provides otherwise.  
10       (b) The area inside the corporate boundaries of a municipality  
11       comprises its territorial jurisdiction, except to the extent that a statute  
12       expressly authorizes the municipality to exercise a power in areas  
13       outside its corporate boundaries.  
14       (c) Whenever a statute authorizes a municipality to exercise a power  
15       in areas outside its corporate boundaries, the power may be exercised  
16       **only as follows:**  
17       (1) Inside the corporate boundaries of another municipality, only  
18       if both municipalities, by ordinance, enter into an agreement  
19       under IC 36-1-7. **or**  
20       (2) **Except as provided in subdivision (3),** in a county, other than  
21       the county in which the municipal hall is located, but not inside

the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

**(3) This subdivision does not affect or invalidate a written mutual aid agreement for police protection or fire protection executed before July 1, 2015, or a written agreement for services provided by a municipality to an unincorporated area after June 30, 2015, if the services were initially provided by the municipality before July 1, 2015, and the municipality files the written agreement with the county executive before January 1, 2016. This subdivision applies whenever a statute authorizes a municipality to provide the following services in areas outside the municipality's corporate boundaries, but not inside the corporate boundaries of another municipality:**

**(A) Police protection.**

**(B) Fire protection.**

**(C) Street and road maintenance.**

**(D) Sewer service.**

**(E) Water service.**

**Notwithstanding any other law, a municipality may provide municipal services in the unincorporated area of a county only if both the municipality and the county, by ordinance, enter into an agreement under IC 36-1-7. In the absence of an agreement under IC 36-1-7, the county shall provide the services. This subdivision does not affect a municipality's authority to exercise only planning and zoning jurisdiction over the area within two (2) miles of the corporate boundaries of the municipality if the requirements of IC 36-7-4-205 are met.**

(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit shall pay the costs of the action."

Page 14, after line 38, begin a new paragraph and insert:

"SECTION 13. IC 36-7-4-205, AS AMENDED BY P.L.207-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 205. **(a) This section does not affect a county's authority and responsibility to provide services in the unincorporated area of the county in the absence of an agreement with a municipality to provide services to the unincorporated area as set forth in IC 36-1-3-9.**

**(a) (b) ADVISORY.** A municipal plan commission shall adopt a comprehensive plan, as provided for under the 500 series of the

advisory planning law, for the development of the municipality. For comprehensive plans adopted after July 1, 1999, if:

(1) the municipality provides municipal services to the contiguous unincorporated area; or

(2) the municipal plan commission obtains the approval of the county legislative body of each affected county;

the municipal plan commission may provide in the comprehensive plan for the development of the contiguous unincorporated area, designated by the commission, that is outside the corporate boundaries of the municipality, and that, in the judgment of the commission, bears reasonable relation to the development of the municipality. For purposes of this section, participation of a municipality in a fire protection territory established under IC 36-8-19 that includes unincorporated areas contiguous to the municipality may not be treated as providing municipal services to the contiguous unincorporated areas.

~~(b)~~ (c) ADVISORY. Except as limited by the boundaries of unincorporated areas subject to the jurisdiction of other municipal plan commissions, an area designated under this section may include any part of the contiguous unincorporated area within two (2) miles from the corporate boundaries of the municipality. However, the following applies to the designation of an area under this section:

(1) If the corporate boundaries of the municipality or the boundaries of that contiguous unincorporated area include any part of the public waters or shoreline of a lake (which lies wholly within Indiana), the designated area may also include:

(A) any part of those public waters and shoreline of the lake; and

(B) any land area within two thousand five hundred (2,500) feet from that shoreline.

(2) This subdivision applies to a municipality that annexes noncontiguous territory under IC 36-4-3-4(a)(2) or IC 36-4-3-4(a)(3). The boundaries of the noncontiguous territory (including territory that is enlarged under subdivision IC 36-4-3-4(a)(2)(B) for the use of the wastewater treatment facility or water treatment facility) may not be considered a part of the corporate boundaries of the municipality for purposes of designating an area under this section.

~~(c)~~ (d) ADVISORY. Before exercising their rights, powers, and duties of the advisory planning law with respect to an area designated under this section, a municipal plan commission must file, with the recorder of the county in which the municipality is located, a description or map defining the limits of that area. If the commission revises the limits, it shall file, with the recorder, a revised description or map defining those revised limits.

~~(d)~~ (e) ADVISORY. If any part of the contiguous unincorporated area within the potential jurisdiction of a municipal plan commission

is also within the potential jurisdiction of another municipal plan commission, the first municipal plan commission may exercise territorial jurisdiction over that part of the area within the potential jurisdiction of both municipal plan commissions that equals the product obtained by multiplying a fraction, the numerator of which is the area within the corporate boundaries of that municipality and the denominator of which is the total area within the corporate boundaries of both municipalities times the area within the potential jurisdiction of both municipal plan commissions. Furthermore, this commission may exercise territorial jurisdiction within those boundaries, enclosing an area reasonably compact and regular in shape, that the municipal plan commission first acting designates.

~~(e)~~ **(f)** ADVISORY. If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:

- (1) not less than fifty (50) property owners residing in the area involved in the petition;
- (2) the county plan commission; or
- (3) the municipal plan commission.

Before final action on the ordinance by the county legislative body, the county plan commission must hold an advertised public hearing as required for other actions of the county plan commission under the advisory planning law. Upon the passage of the ordinance by the county legislative body and the subsequent acceptance of jurisdiction by the municipal plan commission, the municipal plan commission shall exercise the same rights, powers, and duties conferred in this section exclusively with respect to the contiguous unincorporated area. The jurisdiction of a municipal plan commission, as authorized under this subsection, may be terminated by ordinance at the discretion of the legislative body of the county, but only if the county has adopted a comprehensive plan for that area that is as comprehensive in scope and subject matter as that in effect by municipal ordinance.

~~(f)~~ **(g)** ADVISORY. Each municipal plan commission in a municipality located in a county having:

- (1) a population of less than ninety-five thousand (95,000); and
- (2) a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county;

may, at any time, after filing notice with the county recorder and the county plan commission, exercise or reject territorial jurisdiction over any part of the area within two (2) miles of the corporate boundaries of

that municipality and within that county, whether or not that commission has previously exercised that jurisdiction, if the municipality is providing municipal services to the area. Within sixty (60) days after receipt of that notice, the county plan commission and the county legislative body shall have the county comprehensive plan and ordinance revised to reflect the decision of the municipal plan commission exercising the option provided for in this subsection. If the municipality is not providing municipal services to the area, the municipal plan commission must obtain the approval of the county legislative body of each affected county before exercising jurisdiction.

~~(g)~~ **(h)** AREA. Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:

- (1) within the county that is outside the municipalities; and
- (2) within each participating municipality.

~~(h)~~ **(i)** ADVISORY—AREA. Whenever a new town is incorporated in a county having a county plan commission or an area plan commission, that plan commission and its board of zoning appeals shall continue to exercise territorial jurisdiction within the town until the effective date of a town ordinance:

- (1) establishing an advisory plan commission under section 202(a) of this chapter; or
- (2) adopting the area planning law under section 202(b) or 204 of this chapter.

Beginning on that effective date, the planning and zoning functions of the town shall be exercised under the advisory planning law or area planning law, as the case may be."

Renumber all SECTIONS consecutively.

(Reference is to HB 1561 as printed February 17, 2015.)

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Representative Goodin