



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 309 be amended to read as follows:

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

1 municipality and the other county, by ordinance, enter into an
2 agreement under IC 36-1-7.

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

14 **(A) Police protection.**

15 **(B) Fire protection.**

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

17 **(D) Sewer service.**

18 **(E) Water service.**

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

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

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

43 ~~(a)~~ **(b) ADVISORY.** A municipal plan commission shall adopt a
44 comprehensive plan, as provided for under the 500 series of the
45 advisory planning law, for the development of the municipality. For
46 comprehensive plans adopted after July 1, 1999, if:

1 (1) the municipality provides municipal services to the contiguous
2 unincorporated area; or
3 (2) the municipal plan commission obtains the approval of the
4 county legislative body of each affected county;
5 the municipal plan commission may provide in the comprehensive plan
6 for the development of the contiguous unincorporated area, designated
7 by the commission, that is outside the corporate boundaries of the
8 municipality, and that, in the judgment of the commission, bears
9 reasonable relation to the development of the municipality. For
10 purposes of this section, participation of a municipality in a fire
11 protection territory established under IC 36-8-19 that includes
12 unincorporated areas contiguous to the municipality may not be treated
13 as providing municipal services to the contiguous unincorporated areas.

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

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

24 (A) any part of those public waters and shoreline of the lake;
25 and
26 (B) any land area within two thousand five hundred (2,500)
27 feet from that shoreline.

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

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

43 ~~(f)~~ (e) ADVISORY. If any part of the contiguous unincorporated
44 area within the potential jurisdiction of a municipal plan commission
45 is also within the potential jurisdiction of another municipal plan
46 commission, the first municipal plan commission may exercise

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

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

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

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

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

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

42 may, at any time, after filing notice with the county recorder and the
 43 county plan commission, exercise or reject territorial jurisdiction over
 44 any part of the area within two (2) miles of the corporate boundaries of
 45 that municipality and within that county, whether or not that
 46 commission has previously exercised that jurisdiction, if the

1 municipality is providing municipal services to the area. Within sixty
 2 (60) days after receipt of that notice, the county plan commission and
 3 the county legislative body shall have the county comprehensive plan
 4 and ordinance revised to reflect the decision of the municipal plan
 5 commission exercising the option provided for in this subsection. If the
 6 municipality is not providing municipal services to the area, the
 7 municipal plan commission must obtain the approval of the county
 8 legislative body of each affected county before exercising jurisdiction.

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

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

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

- 19 (1) establishing an advisory plan commission under section
 20 202(a) of this chapter; or
- 21 (2) adopting the area planning law under section 202(b) or 204 of
 22 this chapter.

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

26 Renumber all SECTIONS consecutively.

(Reference is to ESB 309 as printed March 20, 2015.)

Representative Goodin