



PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 330 be amended to read as follows:

- 1 Page 2, line 2, delete "A waiver of remonstrance that is executed
- 2 after June 30," and insert "**Notwithstanding any other law, a waiver**
- 3 **of the right to remonstrate is effective and binding on a landowner**
- 4 **or a successor in title only with regard to an annexation for which**
- 5 **the annexation ordinance was adopted before July 1, 2015."**
- 6 Page 2, delete lines 3 through 42.
- 7 Delete pages 3 through 5.
- 8 Page 6, delete lines 1 through 27.
- 9 Page 7, delete lines 8 through 42, begin a new paragraph and insert:
- 10 "SECTION 4. IC 36-4-3-5 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. **(a) A municipality**
- 12 **may not promote or collect signatures on an annexation petition**
- 13 **that is filed under this section after June 30, 2015.**
- 14 ~~(a)~~ **(b)** If the owners of land located outside of but contiguous to a
- 15 municipality want to have territory containing that land annexed to the
- 16 municipality, they may file with the legislative body of the municipality
- 17 a petition:
- 18 (1) signed by at least:
- 19 (A) fifty-one percent (51%) of:
- 20 **(i) the owners of land in the territory sought to be annexed,**
- 21 **in the case of a petition filed before July 1, 2015; or**

(ii) in the territory sought to be annexed that is not exempt from property taxes under IC 6-1.1-10 or any other state law, in the case of a petition filed after June 30, 2015; or

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

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

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

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

~~(c)~~ (d) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection ~~(a)~~, (b), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

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

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

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

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

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

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

~~(e)~~ (f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section applies to an annexation in which~~ Owners of land located outside but contiguous to a municipality **may** file a petition with the legislative body of the municipality:

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

(2) signed by:

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

(B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land that is:

(i) located within the territory that is proposed to be annexed; and

(ii) not exempt from property taxes under IC 6-1.1-10 or any other state law.

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

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

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

(d) The municipality may:

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

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

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

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

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

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

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

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

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

SECTION 6. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015.

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

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

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

(B) in the territory proposed to be annexed; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of land:

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

(B) in the territory proposed to be annexed.

(d) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:

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

(e) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality. A landowner who withdraws the landowner's signature from the petition is considered not to have signed the petition for purposes of subsection (h)(2).

(f) The municipality must file the petition with the circuit or superior court of the county where the municipality is located not later than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by:

(1) a copy of the ordinance; and

(2) the names and addresses of all persons who meet the requirements of subsection (h).

(g) On receipt of the petition, the court shall determine whether the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and whether signers of the petition 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. If the court determines that the municipality's petition has a sufficient number of signatures, the court shall fix a time, not later than sixty (60) days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described in subsection (g) if the person:

- (1) is an owner of property in the territory proposed to be annexed;
- (2) did not sign the petition and no other owner of the property signed the petition filed by the municipality; and
- (3) appeared in person or submitted a remonstrance or other document objecting to the annexation into the record of the hearing under section 2.1 of this chapter.

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

SECTION 7. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.6. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

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

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

- (1) the validity of a signature is uncertain; and
- (2) this section does not establish a standard to be applied in the case;

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

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

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

(f) If the residence address or mailing address of an individual contains a substantial variation from the residence address or

mailing address as set forth in the relevant county records, the signature is considered invalid.

(g) If the signature of an individual does not substantially conform with the signature of the individual in relevant county records, the signature is considered invalid. In determining whether a signature substantially conforms with the signature in the relevant county records, consideration shall be given to whether that lack of conformity may reasonably be attributed to the age, disability, or impairment of the individual.

SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) After an annexation ordinance is adopted, under section 3, 4, 5, or 5.1 of this chapter, it the ordinance must be published in the manner prescribed by IC 5-3-1.

(b) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. Except as provided in subsection (b); (c); or (f); (c), (d), or (e), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(c) The annexation ordinance takes effect as follows:

(1) This subdivision applies to an annexation under section 5 of this chapter. Except as provided in subsection (d) or (f), in the absence of an appeal under section 15.5 of this chapter, the annexation ordinance takes effect at least ninety (90) days after its publication and upon filing under section 22(a) of this chapter.

(2) This subdivision applies to an annexation under section 5.1 of this chapter. Except as provided in subsection (d) or (f), in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.

(3) This subdivision applies to an annexation under section 5.5 of this chapter. Except as provided in subsection (d) or (f), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

(4) This subdivision applies to an annexation under section 7.1 of this chapter for which an annexation ordinance is adopted after June 30, 2015. Notwithstanding subsection (d), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

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

~~(c)~~ **(e)** Subsections ~~(d)~~ **(f)** and ~~(e)~~ **(g)** apply to fire protection districts that are established after June 14, 1987.

~~(d)~~ **(f)** Except as provided in subsection ~~(b)~~; **(d)**, whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance, in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or in the absence of a hearing or an appeal under section 12 or 15.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after June 30, 2015)**, takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

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

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

~~(e)~~ **(g)** If the fire protection district from which a municipality annexes territory under subsection ~~(d)~~ **(f)** is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

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

- 1 Delete pages 8 through 9.
- 2 Page 10, delete lines 1 through 11.
- 3 Page 10, line 13, after "7.1." insert **"(a) This subsection applies**
- 4 **only to an annexation for which an annexation ordinance was**
- 5 **adopted before July 1, 2015."**
- 6 Page 10, line 16, delete ", 11.1,".
- 7 Page 10, line 18, strike "all of the following".
- 8 Page 10, line 19, strike "conditions are met:" and insert **"the**
- 9 **conditions set forth in subsection (c) are met.**
- 10 **(b) This subsection applies to an annexation for which an**
- 11 **annexation ordinance is adopted after June 30, 2015. An**
- 12 **annexation that meets the conditions set forth in subsection (c)**
- 13 **takes effect as set forth in section 7(c) of this chapter.**
- 14 **(c) This section applies to an annexation that meets all of the**
- 15 **following conditions:"**
- 16 Page 10, line 27, delete "This subsection".
- 17 Page 10, delete line 28.
- 18 Page 10, line 29, delete "was adopted before July 1, 2015.".
- 19 Page 10, line 29, strike "section 5.1(i)".
- 20 Page 10, line 30, strike "of this chapter and".
- 21 Page 10, line 30, reset in roman "(d) and (e),".
- 22 Page 10, line 30, delete "(e) and (f),".
- 23 Page 11, line 1, delete "This subsection applies only to an
- 24 annexation for which an".
- 25 Page 11, line 2, delete "annexation ordinance was adopted before
- 26 July 1, 2015.".
- 27 Page 11, line 11, delete "This subsection applies only to an
- 28 annexation for which an".
- 29 Page 11, line 12, delete "annexation ordinance was adopted before
- 30 July 1, 2015.".
- 31 Page 11, delete lines 18 through 38.
- 32 Page 11, line 39, reset in roman "(d)".
- 33 Page 11, line 39, delete "(e)".
- 34 Page 12, line 1, reset in roman "(e)".
- 35 Page 12, line 1, delete "(f) This subsection applies only to an
- 36 annexation for which".
- 37 Page 12, line 2, delete "an annexation ordinance is adopted before
- 38 July 1, 2015.".
- 39 Page 12, line 11, delete ".".
- 40 Page 12, line 11, reset in roman "as determined under subsection".
- 41 Page 12, line 12, reset in roman "(b)".
- 42 Page 12, delete lines 13 through 42, begin a new paragraph and
- 43 insert:
- 44 **"(f) This section applies only to an annexation for which the**
- 45 **annexation ordinance was adopted before July 1, 2015.**
- 46 SECTION 11. IC 36-4-3-11.5 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.5. **(a)** A landowner
 2 in an unincorporated area is not required to grant a municipality a
 3 waiver against remonstrance as a condition of connection to a sewer or
 4 water service if all of the following conditions apply:

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

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

10 **(b) Notwithstanding any other law, a waiver of the right to**
 11 **remonstrate is effective and binding on a landowner or a successor**
 12 **in title only with regard to an annexation for which the annexation**
 13 **ordinance was adopted before July 1, 2015.**

14 SECTION 12. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
 15 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) The circuit or superior court
 17 shall:

18 (1) on the date fixed under section 11 **(in the case of an**
 19 **annexation for which an annexation ordinance is adopted**
 20 **before July 1, 2015) or 5.5** of this chapter, hear and determine
 21 the remonstrance **(in the case of an annexation for which an**
 22 **annexation ordinance is adopted before July 1, 2015) or**
 23 **petition** without a jury; and

24 (2) without delay, enter judgment on the question of the
 25 annexation according to the evidence that either party may
 26 introduce.

27 **(b) This subsection does not apply to an annexation under**
 28 **section 7.1 of this chapter.** If the court enters judgment in favor of the
 29 annexation, the annexation may not take effect during the year
 30 preceding the year in which a federal decennial census is conducted.
 31 An annexation that would otherwise take effect during the year
 32 preceding a year in which a federal decennial census is conducted takes
 33 effect January 1 of the year in which a federal decennial census is
 34 conducted.

35 SECTION 13. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,
 36 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Except as provided in
 38 ~~subsections (c) and (g); subsection (e)~~, at the hearing under section 12
 39 of this chapter, the court shall order a proposed annexation to take
 40 place if the following requirements are met:

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

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

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

45 (1) That the territory sought to be annexed is contiguous to the
 46 municipality.

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

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

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

5 (C) The territory is zoned for commercial, business, or
6 industrial uses.

7 (c) The requirements of this subsection are met if the evidence
8 establishes the following:

9 (1) That the territory sought to be annexed is contiguous to the
10 municipality as required by section 1.5 of this chapter, except that
11 at least one-fourth (1/4), instead of one-eighth (1/8), of the
12 aggregate external boundaries of the territory sought to be
13 annexed must coincide with the boundaries of the municipality.

14 (2) That the territory sought to be annexed is needed and can be
15 used by the municipality for its development in the reasonably
16 near future.

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

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

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

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

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

41 (5) That services of a capital improvement nature, including street
42 construction, street lighting, sewer facilities, water facilities, and
43 stormwater drainage facilities, will be provided to the annexed
44 territory within three (3) years after the effective date of the
45 annexation in the same manner as those services are provided to
46 areas within the corporate boundaries, regardless of similar

topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) **This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** At the hearing under section 12 of this chapter, the court shall do the following:

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

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) **This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

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

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

(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

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

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

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection;

(ii) Street and road maintenance;

(B) The annexation will have a significant financial impact on the residents or owners of land;

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed;

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed;

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed:

(h) (g) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

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

(h) This subsection applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. A municipality may not amend the fiscal plan after the date that the municipality files the annexation petition with the court under section 5.5 of this chapter, unless amendment of the fiscal plan is consented to by the individuals signing the petition."

Delete pages 13 through 20.

Page 21, delete lines 1 through 6.

Page 21, delete lines 15 through 42, begin a new paragraph and

- 1 insert:
- 2 "SECTION 15. IC 36-4-3-15 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) The court's
- 4 judgment under section 12 or 15.5 of this chapter must specify the
- 5 annexation ordinance. ~~on which the remonstrance is based.~~ The clerk
- 6 of the court shall deliver a certified copy of the **final unappealable**
- 7 judgment to the clerk of the municipality. The clerk of the municipality
- 8 shall:
- 9 (1) record the judgment in the clerk's ordinance record; and
- 10 (2) make a cross-reference to the record of the judgment on the
- 11 margin of the record of the annexation ordinance.
- 12 (b) If a judgment under section 12 or 15.5 of this chapter is adverse
- 13 to annexation, the municipality may not make further attempts to annex
- 14 the territory or any part of the territory during the four (4) years after
- 15 the later of:
- 16 (1) the judgment of the circuit or superior court; or
- 17 (2) the date of the final disposition of all appeals to a higher court;
- 18 unless the annexation is petitioned for under section 5 or 5.1 of this
- 19 chapter.
- 20 (c) This subsection applies if a municipality repeals the annexation
- 21 ordinance:
- 22 (1) less than sixty-one (61) days after the publication of the
- 23 ordinance under section 7(a) of this chapter; and
- 24 (2) before the hearing commences ~~on the remonstrance~~ under
- 25 section 11(c) **(in the case of an annexation for which an**
- 26 **annexation ordinance is adopted before July 1, 2015) or 12** of
- 27 this chapter.
- 28 A municipality may not make further attempts to annex the territory or
- 29 any part of the territory during the twelve (12) months after the date the
- 30 municipality repeals the annexation ordinance. This subsection does
- 31 not prohibit an annexation of the territory or part of the territory that is
- 32 petitioned for under section 5 or 5.1 of this chapter.
- 33 (d) This subsection applies if a municipality repeals the annexation
- 34 ordinance:
- 35 (1) at least sixty-one (61) days but not more than one hundred
- 36 twenty (120) days after the publication of the ordinance under
- 37 section 7(a) of this chapter; and
- 38 (2) before the hearing commences ~~on the remonstrance~~ under
- 39 section 11(c) **(in the case of an annexation for which an**
- 40 **annexation ordinance is adopted before July 1, 2015) or 12** of
- 41 this chapter.
- 42 A municipality may not make further attempts to annex the territory or
- 43 any part of the territory during the twenty-four (24) months after the
- 44 date the municipality repeals the annexation ordinance. This subsection
- 45 does not prohibit an annexation of the territory or part of the territory
- 46 that is petitioned for under section 5 or 5.1 of this chapter.

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

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences ~~on the remonstrance~~ under section 11(c) **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or 12** of this chapter; or

(B) after the hearing commences ~~on the remonstrance~~ as set forth in section 11(c) **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or 12** of this chapter; and

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

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

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 16. IC 36-4-3-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

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

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

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

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

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement

is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

(d) A settlement agreement executed after June 30, 2015, is void.

SECTION 17. IC 36-4-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The clerk of the municipality shall do the following:

(1) File each annexation ordinance against which a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)** or an appeal has not been filed during the period permitted under this chapter or the certified copy of a **final unappealable** judgment ordering an annexation to take place with each of the following:

(A) The county auditor of each county in which the annexed territory is located.

(B) The circuit court clerk of each county in which the annexed territory is located.

(C) If a board of registration exists, the registration board of each county in which the annexed territory is located.

(D) The office of the secretary of state.

(E) The office of census data established by IC 2-5-1.1-12.2.

(2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)** or an appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained

jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 18. IC 36-9-22-2, AS AMENDED BY P.L.243-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

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

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

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

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

(c) **Before July 1, 2015**, the contract must include, as part of the

consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works, **if the annexation ordinance is adopted before July 1, 2015.**

(d) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. **Except as provided in subsection (g),** for contracts executed after June 30, 2013, the release of the right to remonstrate is binding on a successor in title to a party to the contract only if the successor in title:

- (1) has actual notice of the release; or
- (2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

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

- (1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

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

(g) Notwithstanding any other law, a release of the right to remonstrate is effective and binding on a landowner or a successor in title to a party to the contract only with regard to an annexation

1 **for which the annexation ordinance was adopted before July 1,**
2 **2015."**

3 Delete pages 22 through 29.

4 Renumber all SECTIONS consecutively.

(Reference is to ESB 330 as printed April 7, 2015.)

Representative Thompson