

Changes to Annexation Statute Following IACIR Report - 1999

PL 120 – 1999 (HEA 1983) Enterprise zones; annexation

Provides that an ordinance adopted by a municipality that annexes certain territory that is contiguous to the municipality takes effect immediately upon the expiration of the specified 60 day remonstrance and appeal period and after the required publication, filing, and recording if: (1) the annexed territory has no population; (2) 90% of the total assessed value of the land for property tax purposes has one owner; and (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.

PL 217-1999 (HEA1608) Annexation provisions

Provides that a municipality shall hold a public hearing on an annexation not earlier than 60 days after the date the annexation ordinance is introduced. Provides that a municipality may adopt an annexation ordinance not earlier than 30 or not later than 60 days after the public hearing on the annexation. Provides that with regard to certain annexations, written notice of the annexation must be sent at least 60 days before the date of the public hearing by certified mail to the landowners in the territory proposed to be annexed. Specifies the information that must be included in the written notice sent to landowners in the area proposed to be annexed. Requires notice of the public hearing to be published at least 60 days before the hearing. Provides that for municipalities other than cities in St. Joseph County, a remonstrance petition must contain the signatures of at least 65% of the owners of land in the annexed territory or the owners of more than 75% of the assessed valuation of land in the annexed territory. (Previous law required that a remonstrance petition must contain the signatures of a majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory.) Provides that a remonstrance petition filed in an annexation by a city in St. Joseph County must contain the signatures of the majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory. Extends the period for filing a remonstrance from 60 days to 90 days. Requires a court to order an annexation not to take place if certain requirements are met. (Under current law, the court may order an annexation not to take place only if these requirements are met in an annexation by a city in St. Joseph County.) Specifies that a municipality must adopt a written fiscal plan for certain annexations. Specifies additional information that must be included in the fiscal plan. Removes a requirement currently in the law that the fiscal plan include the plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation. Provides that all municipalities must provide noncapital and capital services to an annexed area that are equivalent to services provided within the municipality regardless of similar topography, patterns of land use, and population density. (Current law requires municipalities other than cities in St. Joseph County to provide services to the annexed area that are equivalent to those services provided within the municipality that have similar topography, patterns of land use, and population density.) Provides that the secretary of state and township trustee must receive annexation and disannexation filings.

PL 248 – 1999 (SEA 167) Terms and conditions of annexations

Requires (rather than allows) municipalities to include certain terms and conditions in an annexation ordinance. Requires (rather than allows) municipalities to impound certain property taxes collected from annexed territory. Requires that the impounded taxes must be used to provide additional services not specified in the annexation plan. Requires an advisory board to be appointed to advise the municipality on the provision of services to the annexed area. Provides that a municipality: (1) that adopts an annexation ordinance before July 1, 1999; (2) that proves the establishment of a fiscal plan before July 1, 1999; and (3) whose annexation ordinance is effective after July 1, 1999,

is not required to amend its ordinance or fiscal plan but is required to: (1) create terms and conditions of the annexation fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory; and (2) with regard to territory that meets certain population and subdivision requirements, impound in a special fund all of the municipal property taxes imposed on the annexed territory for at least three years after the annexation takes effect. Provides that if a municipality attempts unsuccessfully to annex territory, the municipality may not make further attempts to annex the territory for four years. (Previous law provided that if a municipality attempts unsuccessfully to annex territory, the municipality may not make further attempts to annex the territory for two years.) Provides that a municipality shall hold a public hearing on an annexation not earlier than 60 days after the date the annexation ordinance is introduced. Provides that a municipality may adopt an annexation ordinance not earlier than 30 or not later than 60 days after the public hearing on the annexation. Provides that with regard to certain annexations, written notice of the annexation must be sent at least 60 days before the date of the public hearing by certified mail to the landowners in the territory proposed to be annexed. Specifies the information that must be included in the written notice sent to landowners in the area proposed to be annexed. Requires notice of the public hearing to be published at least 60 days before the hearing. Provides that for municipalities other than cities in St. Joseph County, a remonstrance petition must contain the signatures of at least 65% of the owners of land in the annexed territory or the owners of more than 75% of the assessed valuation of land in the annexed territory. (Previous law provided that a remonstrance petition must contain the signatures of a majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory.) Provides that a remonstrance petition filed in an annexation by a city in St. Joseph County must contain the signatures of the majority of owners of land in the annexed territory or the owners of more than 75% in assessed valuation of the land in the annexed territory. Extends the period for filing a remonstrance from 60 days to 90 days. Requires a court to order an annexation not to take place if certain requirements are met. (Previous law provided that the court may order an annexation not to take place only if these requirements are met in an annexation by a city in St. Joseph County.) Specifies that a municipality must adopt a written fiscal plan for certain annexations. Specifies additional information that must be included in the fiscal plan. Removes a requirement currently in the law that the fiscal plan include the plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation. Provides that all municipalities must provide noncapital and capital services to an annexed area that are equivalent to services provided within the municipality regardless of similar topography, patterns of land use, and population density. (Current law requires municipalities other than cities in St. Joseph County to provide services to the annexed area that are equivalent to those services provided within the municipality that have similar topography, patterns of land use, and population density.) Provides that the secretary of state and township trustee must receive annexation and disannexation filings.

Changes to Annexation Statute Since 2000

PL 14 - 2000 (SEA 12) Technical corrections

Removed an errant “and” from IC 36-4-3-22.

PL 49 – 2000 (HEA 1228) Consensual annexations

Provides that if an annexation is with the written consent of all property owners within the area to be annexed, notice of the public hearing on the annexation must be: (1) published one time at least twenty days before the hearing; and (2) given to the property owners within the area to be annexed not later than twenty days before the hearing. (Previously the law provided that notice by publication and by certified mail must be at least 60 days before the hearing.)

PL 76 - 2001 (HEA 1047) Definition of autism

Made a change to 36-4-3-13(h) which contains a reference regarding Census data.

PL 212 - 2001 (HEA 1776) Legislative redistricting

Requires that a judgment for disannexation or vacation be filed with the Office of Census Data.

PL 224 – 2001 (HEA 1894) Annexation

Specifies that with respect to an annexation initiated by all property owners of the area to be annexed: (1) the municipality must give notice of the hearing at least 20 day before the hearing; (2) a remonstrance may not be filed; (3) the public hearing may be held within 30 days after introduction of the ordinance; (4) the ordinance may be adopted not earlier than 14 days after the hearing; (5) the annexation takes effect at least 30 days after the annexation ordinance is published. Specifies that a landowner may withdraw the landowner's signature from a petition to annex containing signatures of all the landowners in the territory to be annexed. Provides that if a municipality repeals an annexation ordinance, it may not make further attempts to annex territory or any part of territory for 12, 24, or 42 months depending on at what point in the proceedings that the municipality repeals the ordinance. Authorizes the town of Avon in Hendricks County to annex territory if the territory is contiguous to the town, if the entire territory is located in the township within which the town is primarily located, and if the owner of the territory consents to the annexation. Exempts the town of Fishers in Hamilton County from the requirement that the town obtain the consent of the legislative body of a second or third class city before annexing within 3 miles of the corporate boundaries of the city if the city is located in another county. Provides that the date on which an annexation ordinance takes effect must be at least 90 days after the ordinance is published and filed. Requires that each page of a petition or remonstrance concerning an annexation must have a heading stating that it is a petition for annexation.

PL 276 – 2001 (SEA 486) Local government

Made a change to IC 36-4-3-22 requiring that property taxation records kept in the surveyor's office reflect that an annexation took effect.

PL 1 – 2002 (SEA 216) Technical corrections

Corrected references to remonstrance in IC 36-4-3-15. Corrected references to the Office of Census Data in IC 36-4-3-19 and IC 36-4-3-22.

PL 170 – 2002 (SEA 399) Adjusting census numbers in statutes

Updated all population parameters in the IC 36-4-3 to 2000 Census levels. Clarifies that for the purposes of establishing population density during annexation that the most recent of the federal decennial census, federal special census, special tabulation, or corrected population count be used.

PL 173 – 2003 (HEA 1242) Local government matters

Removed a number of special provisions in the annexation statute that applied only to St. Joseph County.

PL 97 – 2004 (SEA 106) Technical corrections.

Removed an errant “a” from IC 36-4-3-13.

PL 111 – 2005 (SEA 512) Town government and annexation

Provides that a town does not have to obtain the consent of a city before annexing territory within three miles of the city if the town annexes territory located in a different county than a city or the annexation is a voluntary annexation or an annexation initiated by a municipality and consented to by at least 51% of the landowners of the annexed territory. Provides that if territory to be annexed consists of not more than 100 parcels, and 80% of the boundary of the annexed territory is contiguous to the municipality, a remonstrance requires the signatures of at least 75% of the landowners in the annexed territory. Allows a municipality in Elkhart County to annex territory that: (1) is not contiguous to the municipality; (2) has its entire area not more than two miles from the municipality's boundary; (3) is to be used for an industrial park containing one or more businesses; and (4) is either owned by the municipality or by a property owner who consents to the annexation. Allows the following to exempt annexed agricultural land from property tax liability until the land is rezoned under a different classification: (1) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization. (2) The town of Pendleton. (3) The town of Lapel. (4) A town located in a township that borders the Muscatatuck River and has a canning factory.

PL 71 – 2006 (HEA 1089) Annexation of property zoned agricultural

Allows a city or town to exempt annexed agricultural land from property tax liability until the land is rezoned under a different classification. (Under previous law, only certain municipalities could do this.) Provides that if the annexation ordinance is adopted after June 30, 2006, the property tax liability is exempted for a period of not more than 10 years.

PL 182 – 2009ss (HEA 1001) Budget bill

Adds Wabash County to the counties that may annex noncontiguous property to be used as an industrial park.

PL 69 – 2010 (HEA 1125) Highway matters

Requires a municipality to send written notice of the hearing on an annexation ordinance to property owners whose property is located outside the proposed annexed area but is adjacent to a right-of-way of a road or street that forms one of the boundaries of the area.

PL 113 – 2010 (HEA 1086) [No title.]

Changes from January 2 to January 1 the date certain local annexations, election boundary changes, and reorganizations take effect.

PL 220 – 2011 (HEA 490) Noncode statutes

Incorporated several noncode provisions within IC 36-4-3.

PL 119 – 2012 (HEA 115) Classification of political subdivisions

Changes population parameters in various statutes to reflect the population count determined under the 2010 decennial census.

PL 202 – 2013 (SEA 343) Local government reorganization

Establishes the relationship between annexations and reorganizations (36-1.5-4-45). Also, Establishes that if a township is a participant in a proposed reorganization, a municipality may not adopt an annexation ordinance annexing territory within the township within the period set forth in IC 36-1.5-4-45.

PL 243 – 2013 (SEA 285) Annexation

Provides that if a person waives the person's right to remonstrate against an annexation as part of a contract with a municipality for providing sewer service to the person's property, the release is not binding on a successor in title to the property unless, for sewer contracts executed after June 30, 2013, the successor in title: (1) has actual notice of the waiver; or (2) has constructive notice of the waiver because the contract, or a signed memorandum of the contract stating the waiver, has been recorded in the chain of title of the property. (Under current law, the contract containing the waiver must be recorded in order to bind the successors in title of the party to the agreement.) Allows municipalities that annex territory that is contiguous to the municipality to exempt from property tax liability for municipal purposes any portion of the territory that is classified for zoning purposes as agricultural. Provides that: (1) the exemption remains in place as long as the property's zoning classification remains agricultural; and (2) the property owner must consent to changing the zoning classification from agricultural to another zoning classification. (Previously, the law required that: (1) the owner must consent to the annexation; and (2) the owner must consent to change the zoning classification from agricultural, but the property tax exemption is limited to not more than 10 years.) Removes a requirement that a town obtain the consent of a second or third class city before annexing territory within three miles of the city. Prohibits a town from annexing within one mile of the corporate boundaries of a second or third class city unless: (1) the town is located in a different county than the city; or (2) the annexation is obtained by consent of the landowners. Allows a town to annex within an area that extends: (1) more than one mile; and (2) less than three miles; outside the boundaries of a second or third class city, if any annexation by the town does not extend more than one mile outside the corporate boundaries of the town. Authorizes the establishment of the interim study committee on annexation to study: (1) the annexation process; (2) the impact of annexation on property owners and political subdivisions, including the shift in assessed value between political subdivisions; and (3) limiting the assessed value that a municipality may annex in a year or other period.

PL 196 -2014 (SEA 53) Municipal utilities (Annexation provisions effective 7/1/14)

Provides that, in a situation in which a municipal utility is providing services to properties located outside the municipality under contracts that provide for the property owners to make payments in lieu of annexation, if the contracts expire, the municipal utility may not terminate services to the properties and, as a condition of continuing to receive services, the owners of the properties must continue paying the rate for the services provided for in the expired contracts, for two years or until: (1) the municipal utility and the owners of the properties enter into new contracts; (2) the area in which the properties are located is annexed into the municipality; or (3) the matter is submitted to arbitration. Specifies that, in an arbitration proceeding, the award made by the arbitrator must establish reasonable and just terms of a new contract between the municipal utility and the owners of the properties,

considering all relevant factors, and that if either party fails or refuses to enter into a new contract according to the terms of the arbitration award, the other party may commence legal action to enforce the award.

PL 207 – 2014 Annexation of noncontiguous property (Various effective dates)

Allows a municipality to annex property that is not contiguous to the municipality and is occupied by: (1) a municipally owned or operated wastewater treatment facility or water treatment facility; or (2) a police station of the municipality. Provides that if a municipality annexes such territory, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance. Provides that certain municipalities may appeal an annexation on the basis that the annexed territory is not contiguous to the annexing municipality. Specifies that certain annexed territory may not be considered a part of the municipality for purposes of annexing additional territory and may not be considered a part of the corporate boundaries of the municipality for certain purposes under zoning laws.