



# Annexation in Indiana: Issues and Options

by

Greg Lindsey  
*Associate Director*  
*Center for Urban Policy and the Environment*

Jamie Palmer  
*Project Manager*  
*Center for Urban Policy and the Environment*



Center for Urban Policy and the Environment  
Indiana University School of Public and Environmental Affairs

November 1998

**Indiana Advisory Commission on Intergovernmental Relations**  
342 North Senate Avenue  
Indianapolis, IN 46204-1708

# Indiana Advisory Commission on Intergovernmental Relations Members

## REPRESENTING THE INDIANA GENERAL ASSEMBLY

**Chair**  
**Representative William W. Bailey (D)**  
Seymour, Indiana  
**Senator Allie V. Craycraft, Jr. (D)**  
Selma, Indiana  
**Senator Beverly J. Gard (R)**  
Greenfield, Indiana  
**Senator Richard Young (D)**  
Milltown, Indiana

**Vice Chair**  
**Senator Joseph C. Zakas (R)**  
Elkhart, Indiana  
**Representative Sheila Klinker (D)**  
Lafayette, Indiana  
**Representative Gloria J. Goeglein (R)**  
Fort Wayne, Indiana  
**Representative Sue W. Scholer (R)**  
West Lafayette, Indiana

## REPRESENTING CITY, COUNTY, TOWNSHIP, AND REGIONAL GOVERNMENT

**Mayor Stephen Goldsmith**  
City of Indianapolis  
**Mayor Sonya Margerum**  
City of West Lafayette  
**Sue Paris**  
Bartholomew County Treasurer  
**Leslie W. Goss**  
White County Recorder  
**Gerald J. Gilles**  
Shelby Township Trustee  
**Susan A. Craig**  
Director, Southeast Regional Planning Comm.

**Mayor John Fernandez**  
City of Bloomington  
**Gardest Gillespie**  
City of Gary Councilmember  
**Joyce B. Poling**  
Monroe County Council  
**Jim Beery**  
Knox County Council  
**Linda Williams**  
Adams Township Trustee

## REPRESENTING CITIZENS

**Rick Cockrum**  
Indianapolis, Indiana

**Dave Bohmer**  
Greencastle, Indiana

## STATE OFFICIALS

**Governor Frank O'Bannon**  
State of Indiana  
**Peggy Boehm**  
Director, Indiana State Budget Agency

**Lieut. Governor Joseph E. Kernan**  
State of Indiana

## ALTERNATES

**Robert L. Kovach**  
For the Governor  
**Stephen Carter**  
For the Mayor of Indianapolis

**John Ryan**  
For the Lieut. Governor

## STAFF

**John L. Krauss**  
Director

**Jamie L. Palmer**  
Research Assistant

IACIR is staffed by Indiana University Center for Urban Policy and the Environment

**John L. Krauss, Director**

Indiana Advisory Commission on Intergovernmental Relations

342 North Senate Avenue

Indianapolis, Indiana 46204-1708

317-261-3006 or [jkrauss@speanet.iupui.edu](mailto:jkrauss@speanet.iupui.edu)

<http://www.spea.iupui.edu/iacir/iacir.htm>

Annexation in  
Indiana:  
Issues and Options

by

Greg Lindsey  
*Associate Director*  
*Center for Urban Policy and the Environment*

Jamie Palmer  
*Project Manager*  
*Center for Urban Policy and the Environment*

**Director,  
Indiana Advisory Commission on Intergovernmental Relations  
John L. Krauss**

The Indiana Advisory Commission on Intergovernmental Relations  
would like to acknowledge the support and research assistance  
in developing this commission study provided by:

**The Center for Urban Policy and the Environment**

**Contributors**

Tracy Williams  
Drew Klacik  
James Owen  
Joseph Rubleske  
Jill Hoferle  
Paula Schwabe

**Technical Review**

John Kirlin  
Samuel Nunn  
Michael Przybylski  
John L. Krauss  
Don Blackmond  
Linda Runkle  
Richard Sharkey

**Editor**

Teresa A. Bennett

**Assistant to the Editor**

Jeannine G. Smith

The recommended citation for this report is:

Lindsey, Greg and Jamie Palmer. *Annexation in Indiana: Issues and Options*. Indianapolis, IN: Indiana Advisory Commission on Intergovernmental Relations, Center for Urban Policy and the Environment, Indiana University School of Public and Environmental Affairs, November 1998.

# Annexation in Indiana: Issues and Options

November 1998

---

Executive Summary.....	i
1.0 Introduction .....	1
2.0 A Brief History of Current Indiana Annexation Law .....	4
3.0 Annexation in Indiana: Procedures and Requirements .....	7
4.0 Annexations in Indiana: An Overview.....	13
5.0 Taxes Affected by Annexation .....	28
6.0 Requirements and Roles for Fiscal Analyses.....	36
7.0 Hoosier Perspectives on Annexation.....	45
8.0 Annexation in the United States: An Overview .....	52
9.0 Critical Issues in Annexation .....	63
10.0 Options for Annexations in Indiana.....	68
Selected Bibliography.....	73
Appendix 1: Indiana Annexation Statute .....	76

# 1.0 Introduction

Annexation is the legal process by which municipalities expand and add unincorporated territory to their boundaries. During the past 20 years, controversies over particular annexations have resulted in proposals to change the Indiana statute that governs annexation. In 1997, the Indiana General Assembly directed the Indiana Advisory Commission on Intergovernmental Relations (IACIR) to conduct a study of annexation. This report describes the results of the study. Among other items, it documents the intensity of the controversies over annexation. But it shows that more often than not, property owners or developers initiate annexation proceedings in exchange for extension of municipal utilities and services. Controversies over annexation seem more common partly because of the strongly held convictions of opponents of annexation.

## The Annexation Debate

A headline in the March 1998 PAPA Newsletter exclaims “*Indiana Annexation Law is Un-American!*” PAPA (People Against Portage Annexation) was formed in November 1997 in response to a proposal by the City of Portage to annex approximately 3,300 acres in Liberty and Portage townships on the southern and eastern borders of Portage. In a scathing indictment of Indiana annexation law, PAPA argues that “... *Mayors in Indiana have the power to annex their neighbors, which is the reason most wars have started, that Indiana annexation process is totally in contrast to the basic principles upon which the United States of American was founded, and ... that annexation in Indiana is clearly taxation without representation” (original emphases). In its next newsletter, PAPA continued: “... To say Indiana’s annexation laws are legal means nothing so were the Jim Crow laws of the south as well as Hitler’s death camps.*

In Allen County, people opposed to Fort Wayne’s 1996 annexation of parts of Wayne Township and more than 12 square miles of Aboite Township organized as Volunteers for Aboite, Inc. Like PAPA, although perhaps with less hyperbole, the Volunteers argued that “*Property Owners Deserve A Vote In Annexation.*” Volunteers for Aboite are “*working on two fronts to overturn Indiana’s unfair annexation law,*” both remonstrating against the Ft. Wayne ordinance and initiating a campaign for reform in the state legislature. The Volunteers have garnered more than 10,000 signatures in opposition to the annexation, are working to raise \$80,000 to pay for litigation, and are using sophisticated grass roots organizing techniques, including their own home page on the World Wide Web, to connect with other anti-annexation organizations. Their fundraising brochure focuses on tax issues and carries a pocketbook theme: “*\$50 Now, Or \$500 Or More Every Year In The Future.*”

Elsewhere in Indiana, similar controversies have erupted, prompting local newspapers to join the debate. *The Daily Ledger* in Hamilton County, in an editorial titled “*Annexation Etiquette,*” opined that “*Westfield, now forcing annexations, could take [a] few pointers from failure in Carmel, ingenuity of Noblesville.*” The “*failure*” in Carmel – an extremely controversial attempt to annex 24 neighborhoods in Clay Township – resulted in the mayor declaring he no longer would undertake any involuntary annexation. The “*ingenuity*” shown in Noblesville is commitment to a policy of voluntary annexation.

But critics of annexation hold no monopoly in the media. The *Fort Wayne Journal Gazette*, for example, has backed the most aggressive annexation program in the state. Declaring the “*Fate of cities core issue,*” the paper recently editorialized that “*The Indiana General Assembly will do more harm than good if it rewrites annexation law to let homeowners block an annexation with a vote but does nothing to control the growth of suburbs.*” The paper continued: “*Indiana’s laws affecting urban growth can be improved. But the guiding principle should not be giving permanent tax breaks to homeowners who happen to live in a neighborhood across the street from the city boundary line.*” Similarly, in an editorial titled “*Annexation is logical product of local growth*” the *Lafayette Journal*

*and Courier concluded Indiana annexation law may need to be updated. But the goal of the protestors – that annexation should be made so difficult that cities will be strangled – should not be allowed to carry the day.*

County and township officials also have entered these frays, expressing concern about loss of tax base, the duplication or provision of unnecessary services, the lack of opportunity to participate in annexation decisions in meaningful ways, decline in quality of life, and erosion of political influence. County and township officials side with grass-roots organizations more often than not, but they rarely lead the battles.

Although other examples are available, these few illustrate the intensity of the controversy. They also suggest its complexity: it involves politics, taxes and local finance, law, intergovernmental relations, and people's attachment to the places where they live.

These examples do not, however, explain the reasons why municipal officials vote to annex, knowing that they may anger new voters and become the target of local columnists. One explanation is that Indiana law gives them the authority to annex virtually unilaterally, so long as they follow certain procedures and meet certain conditions. A better explanation, and the one that applies in virtually all contested cases, is that municipal officials vote to annex territory because they believe that it is in the best interests of the cities and towns they were elected to serve.

Annexation is a tool for providing essential services like sewer, water, and police and fire protection, for managing growth, and for strengthening the economic well being of a city or town. Sometimes when they use this tool, municipal officials vote to annex territory over the objections of property owners and residents. They do so because of the convictions they hold as municipal officials, and they rarely pursue involuntary annexations lightly without careful consideration of the issues.

The debate over annexation thus can be described simply and briefly:

- municipal officials, exercising discretion vested in them by their electorate and the authority given them by the General Assembly, that vote to annex territory in order to provide services, manage growth, and enhance the well being of the cities and towns they serve;
- property owners and residents, resentful of actions by officials they did not elect, and opposed to increases in taxes, that remonstrate, litigate, and organize politically to stop annexations or change annexation law; and
- county and township officials, concerned about loss of tax base and changes in rural ways of life, that question the annexation law and cooperate with citizens, although they usually do not lead annexation battles.

Although this summary captures the essence of the debate, the issues that give rise to it are not simple and involve fundamental problems and questions of governance. These problems include the appropriate degree of representation in decision making, the balancing of public and private interests, fair methods of taxation and local finance, the need for particular services, and questions of intergovernmental relations.

## Contents of This Report

This report addresses an important set of basic questions and issues:

- How does annexation work in Indiana? What is the current law?
- How often does annexation occur in Indiana? Do property owners or municipalities initiate most annexations?

- What taxes are affected by annexation? What are requirements for fiscal analyses? Who benefits and who loses?
- What do Hoosiers think about annexation? What are the issues? How do the opinions of municipal, county, and township officials differ?
- Are the problems with annexation unique to Indiana? How do other states manage the process of annexation? What alternatives are there to the process used in Indiana? What do experts have to say about different approaches?
- What are options for changing the annexation process in Indiana? What are the consequences of changes? Who are likely beneficiaries of changes?

Following this Introduction, Section 2 includes a brief history of legislative studies and analyses and a summary of historic changes in the annexation statute. The history includes a discussion of the debate that led to the mandate for this study. Section 3 is a review of the current Indiana annexation statute. The procedures and requirements for annexation in Indiana are described, and special provisions of the Indiana statute are noted. Much of this information has been presented in IACIR progress reports to the Legislative Council.

Next, using information from the State Board of Tax Commissioners, the U.S. Bureau of the Census Boundary and Annexation Survey, and an original survey of county governments, Section 4 presents information about recent annexations in Indiana. Data are presented for the years 1980-1990, 1990-1995, and 1996-1997. This summary establishes the context for the assessment. The 1996-1997 data represent the only known information about the relative frequency of annexations that are initiated by property owners and municipalities in Indiana. Although preliminary results were included in interim IACIR progress reports to the Legislative Council, these data supersede all previous reports.

Sections 5 and 6 focus on economic and financial issues related to annexation. Section 5 identifies taxes that are affected by annexation and illustrates how tax revenues change when annexation occurs. Section 6 reviews the statutory requirement for fiscal analyses, includes examples of fiscal analyses prepared as part of annexations, and discusses issues related to economic analyses concerning annexation.

Section 7 reports the results of public outreach activities undertaken by the IACIR, including a series of five public forums on annexation held in July and August 1998. These hearings, held in New Albany, Terre Haute, Noblesville, Ft. Wayne, and Lafayette, were attended by more than 200 people who participated in roundtable discussions and identified issues related to current law and policy.

Section 8 is an overview of annexation in the United States. Five general approaches to annexation are described: municipal determination (municipalities initiate), popular determination (voting required for approval), judicial determination (courts decide), legislative determination (state legislatures decide), and quasi-legislative determination (special commissions decide). Municipalities have authority to initiate annexations in many states, but more than half the states make annexation contingent on referenda in the territories to be annexed. Many states use combinations of the five approaches.

Section 9 is a review of critical issues related to annexation in Indiana. These issues include political issues, administrative issues, economic and financial issues, environmental issues, and issues related to sense of place and way of life. This review reveals that while the issues related to annexation in Indiana are not unique, certain issues are more important because of current law and policy.

This report concludes with a discussion of options for revising Indiana annexation law in Section 10. This report does not recommend adoption of any particular option. Rather, the implications of different options are reviewed and steps required for implementation are described. The likely beneficiaries of



changes in annexation law and policy also are identified. Although the report makes no specific recommendations, it is clear that some changes are needed and would be received well by all participants in the debate over annexation. The choice of options is a choice best left to elected decision makers, who are in a position to weigh the pros and cons and make the value judgements necessary to change current law.

## 2.0 A Brief History of Current Indiana Annexation Law

Municipal governments are creatures of the state. Cities and towns can tax, regulate, or undertake other activities only if the state legislature specifically has granted them the authority and power to do so. Under Indiana state law, not all municipalities are created equal. Based on population, state law classifies municipalities as either first-, second-, or third-class cities or towns. In addition, state law includes many provisions that apply only to municipalities of certain sizes that may fall within or across these classifications.

Regardless of their size, state legislators have recognized that municipal boundaries sometimes need to be changed, and they have passed laws that establish procedures that cities and towns must follow when they want to expand their boundaries. Annexation is the name of the process by which municipalities add unincorporated land to their corporate boundaries.

In Indiana, municipalities generally are allowed to annex land so long as they follow certain procedures related to public notice, fiscal analysis, adoption of ordinances, and filing. Property owners and residents of land to be annexed can oppose or remonstrate against annexation generally only on procedural grounds—they cannot oppose an annexation proposal simply because they do not want to be in the municipality or because they believe that annexation will affect them adversely. Similarly, county and township governments can contest annexation only on procedural grounds; they have no basis in law for arguing the merits of an annexation proposal. In general, then, Indiana annexation law includes what is known as a presumption in favor of municipal government. Experts in matters related to local government classify this approach to annexation as municipal determination. Municipal determination means that municipal legislative bodies essentially have freedom to annex land unilaterally. Other approaches exist in other states and are described in Section 8.

Current annexation law in Indiana reflects the historic thinking and priorities of legislators and their willingness to act to balance the points of view held by municipal officials, property owners, and county, township, and other local officials. Most of the current law dates from at least 1980, a time when Indiana statutes governing most aspects of local government were revamped and codified in response to two and one-half years of study by the Local Government Study Commission.

Information from the Office of Code Revision in the Indiana Legislative Services Agency (LSA) suggests that the annexation statute has been amended in 16 of the 19 legislative sessions between 1980 and 1998, with 1984, 1988, and 1998 being the only years in which amendments were not adopted. Some of the changes have been in response to legislative study committees while others, as will be shown in Section 3, have been in response to initiatives by particular municipalities. With one exception in St. Joseph County, none of the changes has been a major change of the basic procedure.

As noted in the Introduction, the debate over annexation raises a number of political, economic, and administrative issues. These issues have been debated repeatedly throughout the past two decades. Brief reviews of studies by the legislature in 1982, 1994, and 1995 illustrate how the debate over annexation has persisted.

## 1982 Interim Study Committee on Local Government Issues

In 1982, just two years after codification of local government law, the Interim Study Committee on Local Government Issues was charged to study “*city and town annexation procedures,*” and to determine whether “*residents of annexed territory are adequately represented on appropriate governing bodies, whether services provided to those residents are adequate, and whether the taxation or levying of fees is fair and equitable.*” Following a series of meetings that included opportunities for public testimony, the Committee concluded, among other findings:

*While the majority of those testifying indicated their approval of the present statute, the committee concluded that more opportunity needed to be given to residents to protest annexation. The committee concluded that residents of territory sought to be annexed were not being given adequate notice prior to the municipality taking action. In addition, the committee concluded that a period of time longer than two years was needed to separate annexation attempts, to avoid the possibility of hardship to residents of the territory...*

The Committee recommended three bills concerning annexation, including one to require municipalities to wait six years after an unsuccessful attempt to annex before trying again and one to require notice of all affected landowners prior to adopting an ordinance. No significant changes in the law were made. Neither the six-year waiting period nor the requirement for individual notice ever were adopted.

## 1994 Interim Study Committee on Local Government Issues

In 1994 the Legislative Council directed the Committee to “*review and simplify current annexation laws*” (HCR 78). The Committee met five times and heard public testimony about issues related to annexation. Common themes that emerged from the Committee’s hearing on annexation included (ILSA 1994):

- *Add public hearings to the annexation process,*
- *Clarify when the two-year moratorium begins for a denied annexation;*
- *Streamline the voluntary annexation process initiated by a landowner;*
- *Consider a formula that eliminates the “tax shock” that taxpayers experience under annexation;*
- *Clarify the statutory definition of “population density”;*
- *Clarify who a landowner is with regard to signing an annexation petition; and*
- *Clarify that a municipality may require a landowner(s) to sign a waiver that they will not contest annexation if the landowner requests municipal services.*

The Committee reached consensus on a number of issues and made a set of recommendations:

- *Municipalities should be required to hold public hearings prior to annexation.*
- *The 60-day time period for remonstrances in the case of voluntary annexation should be retained.*
- *The statutory definition of population density should remain unchanged.*
- *The two-year moratorium on repeat attempts to annex property should begin on the day the judgement against the previous attempt at annexation is final.*
- *The definition of landowner should remain the same.*

- *Municipalities should be allowed to require waivers of rights to remonstrate in situations where property owners petition to be annexed, but not in cases where annexation is being forced by third parties for environmental or other reasons.*
- *A formula of phasing in tax increases associated with annexation at a rate of 25 percent per year for a four-year period should be considered.*

## 1995 Interim Study Committee on Local Government Issues

In 1995, the Interim Study Committee on Local Government Issues again was charged to “*study annexation laws with respect to rights of landowners in unincorporated areas.*” As noted in the 1994 Interim Session, testimony at meetings was divided among those who wanted to repeal the St. Joseph County procedures and those who wanted to expand them to other counties or statewide. The Committee found a “*need for a broader and more in-depth study of annexation law than the narrow charge presented to the Committee for the 1995 interim,*” and that “*urban and suburban growth, congestion, cooperation, and finance*” also needed to be studied. The Committee then recommended a more detailed study for 1996. Funds for a study eventually were appropriated in 1997 for this study.

## 1997-1998 Legislative Action

Several bills concerning annexation were proposed in the 1997-1998 legislative session, but none was passed. These proposals ranged from a technical correction bill to name a state certifying official and a proposed moratorium on all annexations for a period of time to a bill that would have voided annexations in which a remonstrance filed in court was determined to be sufficient (i.e., had a sufficient number of signatures of property owners). The state certifying official is an individual designated by the state to corroborate information on boundary changes reported to the U.S. Bureau of the Census by municipalities.

Although no changes in the law were made, several aspects of the debate during the session are worth noting because of their relevance to debates that will occur in the future. First, major interest groups such as the Indiana Association of Cities and Towns (IACT), the Association of Indiana Counties (AIC), the Indiana Township Association (ITA), and the Indiana Planning Association (IPA), all supported a technical correction to name a certifying official, but the LSA would not include language in its technical corrections bill because it could not confirm that the omission simply was an oversight and not a matter of policy. This illustrates the difficulty in separating matters that may be technical or procedural from matters of policy that have implications for equity, finances, and other issues of concern to stakeholders. Second, IACT, AIC, ITA, and IPA, despite their differences of opinion on a number of issues related to annexation, agreed to remain neutral on bills pending the outcome of this study. Their unified front on an issue as potentially contentious as annexation signified to legislators a willingness to approach the issue in an open and serious way.

As noted previously, the discovery of the lack of a state certifying official raised considerable concern because of potential ramifications for certification of boundary changes with the Boundary and Annexation Survey at the U.S. Bureau of the Census. Efforts to correct this omission are described in detail in *Annexation Issues: Progress Report 3 to the Legislative Council* (June 1998). However, to demonstrate annexation’s link to other municipal activities, it is useful to explain the Boundary and Annexation Survey Program. This program, which compiles data on boundary changes, began as part of the Federal Revenue Sharing program passed by Congress in 1976. When Revenue Sharing ended, the Census Bureau continued the program to aid in administration of the decennial census. The state certifying official first was named in 31 CFR Part 51 published in the Federal Register on January 24, 1985.

The Census Bureau mails boundary maps to each county and incorporated places above 5,000 population in most years and to all incorporated places in the three years preceding the decennial census. Local governments return the maps with boundary changes that have occurred in the intervening period. The Census Bureau then provides all the boundary change information collected to the state certifying official for confirmation and certification.

The state certifying official is asked to confirm and certify four lists of information. List 1 refers to places that have dis-incorporated, became inactive, or ceased to exist as separate entities. List 2 refers to boundary activity for active incorporated places. In this case, the state certifying official is asked to certify that the boundary changes are valid under state law. List 3 is an inventory of all active incorporated places. List 4 is an inventory of all active minor civil divisions (townships in Indiana).

Any places having boundary changes not certified by the state certifying official receive letters from the Census requesting that they take the actions necessary to allow certification. In Indiana, certification requires filing the ordinance or certified copy of judgement with the state certifying official. Boundary changes that remain uncertified are noted in the Census file for each affected place.

The absence of a designated state certifying official in state law places municipal clerks in a classic “Catch-22” position. The clerks are required to file with the state official, but no official has been designated. When the Census Bureau attempts to confirm boundary changes, the state cannot respond because the official has not been designated and in any case has not received information from municipalities. Because the state cannot confirm the changes, the Census Bureau then asks the municipal clerks to provide confirmation. But the only way they can provide confirmation is to go to the state, which they did not do in the first place because the legislature has not designated an official. The administrative consequences of this bureaucratic quagmire are that the boundaries remain as reported to the Census Bureau directly by the municipality unless there is legal evidence to prove that they are incorrect. This problem may, however, open annexations to legal challenges. The relevant point here is that even apparently insignificant changes in law or changes in related laws may affect annexation. It is important that changes to annexation procedures be well considered prior to adoption.

## 3.0 Annexation in Indiana: Procedures and Requirements

This section summarizes existing annexation law in Indiana. The Indiana annexation law (Indiana Code 36-4-3, Chapter 3 Municipal Annexation and Disannexation) is included as Appendix 1.

As noted in Section 2, municipalities generally are allowed to annex land so long as they follow certain procedures related to public notice, fiscal analysis, adoption of ordinances, and filing. Property owners and residents of land to be annexed can oppose or remonstrate against annexation generally only on procedural grounds.

## Procedures for Annexation in Indiana

### Initiating Annexation

Either municipalities or landowners can initiate annexation proceedings in Indiana (Figure 1). In the case of annexation proceedings initiated by a municipality, the process begins when the city or town council (the legislative body) proposes an annexation ordinance. The process then includes a public hearing notice, a public hearing before the legislative body, and a vote on the ordinance. The proceedings end if the ordinance is not adopted. If the ordinance is adopted, it must be published. People who oppose the annexation then can file a remonstrance with the circuit or superior court (see procedures below). The court issues a notice of summons to the municipality, holds a hearing, determines if the annexation was valid or invalid, and provides the municipal clerk a copy of the judgement. If the court finds that the annexation was invalid, the process stops, and the municipality cannot try to annex the territory again for a period of two years. If the annexation was valid, the municipal clerk records the judgement and files the ordinance and judgements with certain state, county, and court offices.

In the case of annexation proceedings initiated by a landowner, the legislative body can, following a hearing, either pass or not pass the ordinance. If the petition is adopted, others can remonstrate following the procedure outlined below. If the legislative body fails to pass the proposed ordinance, the landowner who initiated the petition can appeal to the circuit or superior court.

### Filing Requirements

The filing requirements are fairly complex and require municipal clerks to notify a number of officials, including the county auditor; the county recorder; the circuit court clerk and board of registration, if one exists; and the state certifying official (Figure 2). The county auditor, in turn, must notify a number of officials. The state certifying official is a state employee who has been designated as the recipient of information about annexation. This position is important, because this person is responsible for certifying boundary changes for the U.S. Bureau of the Census Boundary and Annexation Survey. Boundary changes are important for determining municipal populations which, in turn, are used as the basis for allocation of many different types of revenue. Most recently, the state certifying official was an individual in the State Board of Tax Commissioners Office, although as explained in Section 2, state law currently does not designate a certifying official.

### Procedures for Remonstrances

As noted, Indiana law allows people who are affected by and opposed to an annexation to remonstrate against it. A remonstrance simply is a formal objection to an action by a municipality; the procedures vary depending on the type of action. To remonstrate against an annexation, people must obtain the signatures of a majority of property owners or the owners of more than 75 percent on the assessed valuation of the land to be annexed and file papers stating the reasons the annexation should not occur (Figure 3). The signatures must be obtained and the papers must be filed within 60 days of publication of the ordinance. The court first determines whether or not the signatures for the remonstrance were sufficient. The court then determines whether the annexation was valid.

Indiana law requires courts to order a proposed annexation if certain conditions have been met. These conditions include procedural requirements such as notice, contiguity requirements, density or land-use requirements, and requirements for fiscal analyses. Contiguity refers to the extent to which the boundary of the municipality is the same as the boundary of the property to be annexed. In most cases, a property is considered contiguous if at least one-eighth (1/8) of its boundary is co-terminous with the municipal boundary. The density or land-use requirements are most substantive.

Figure 1: Annexation Process

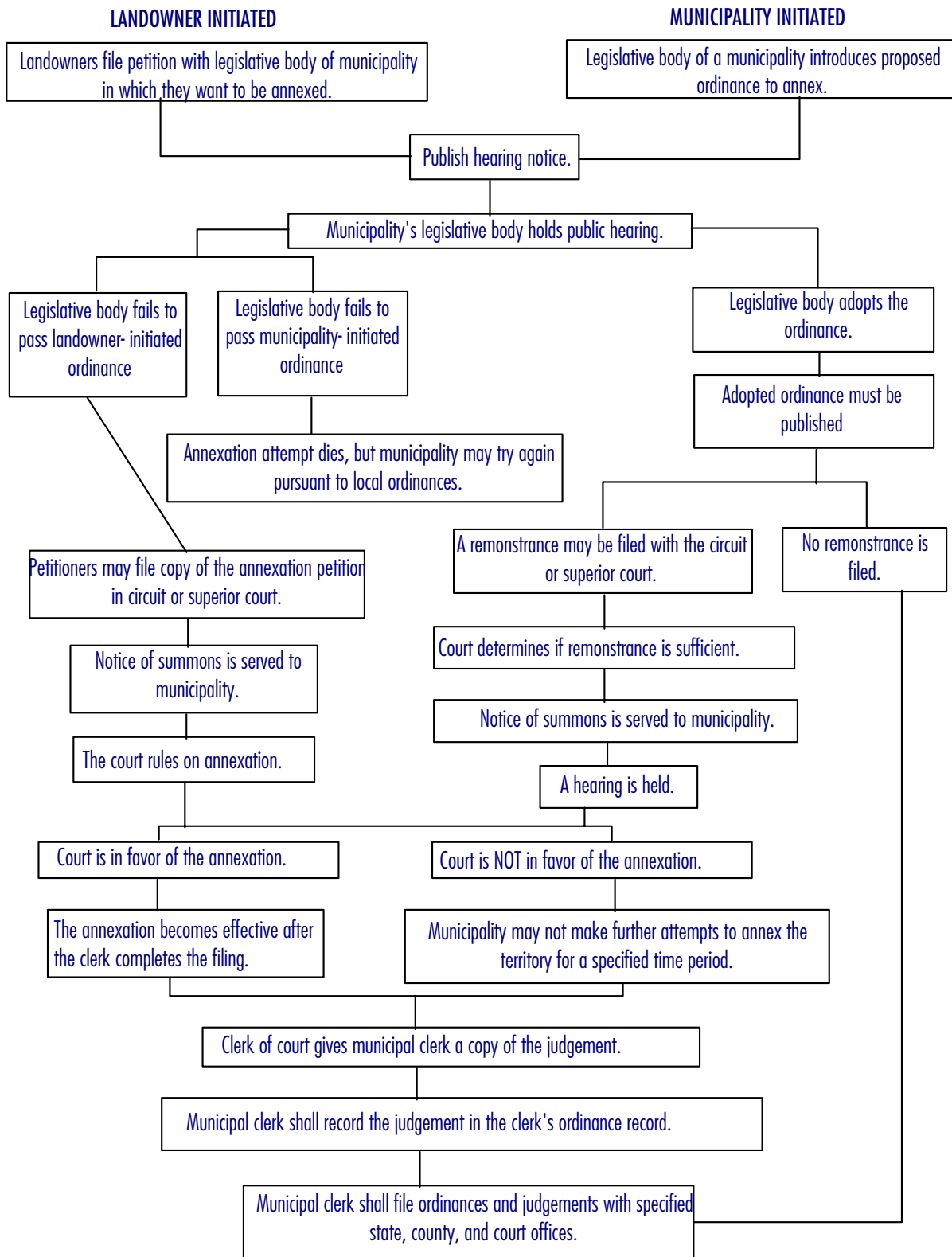
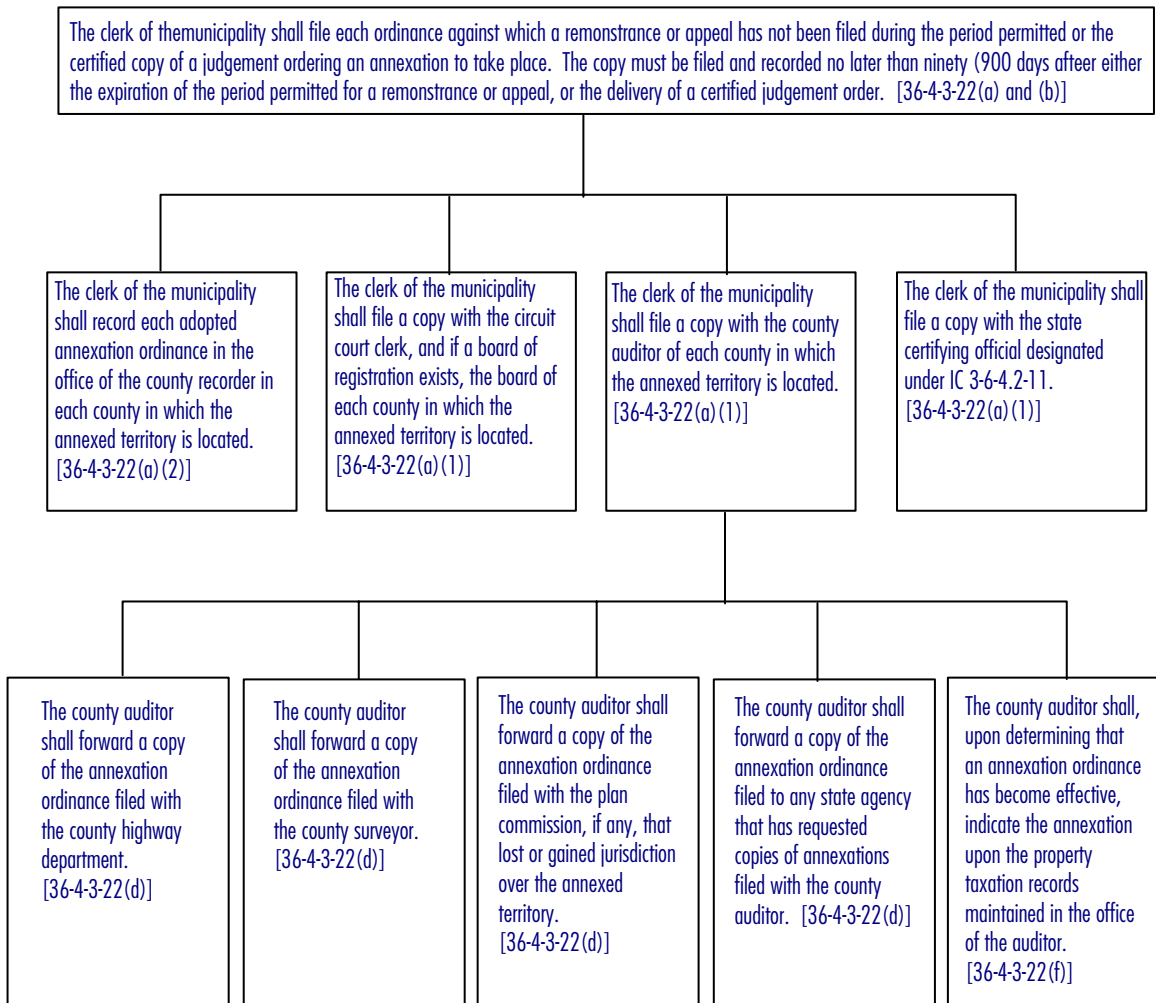
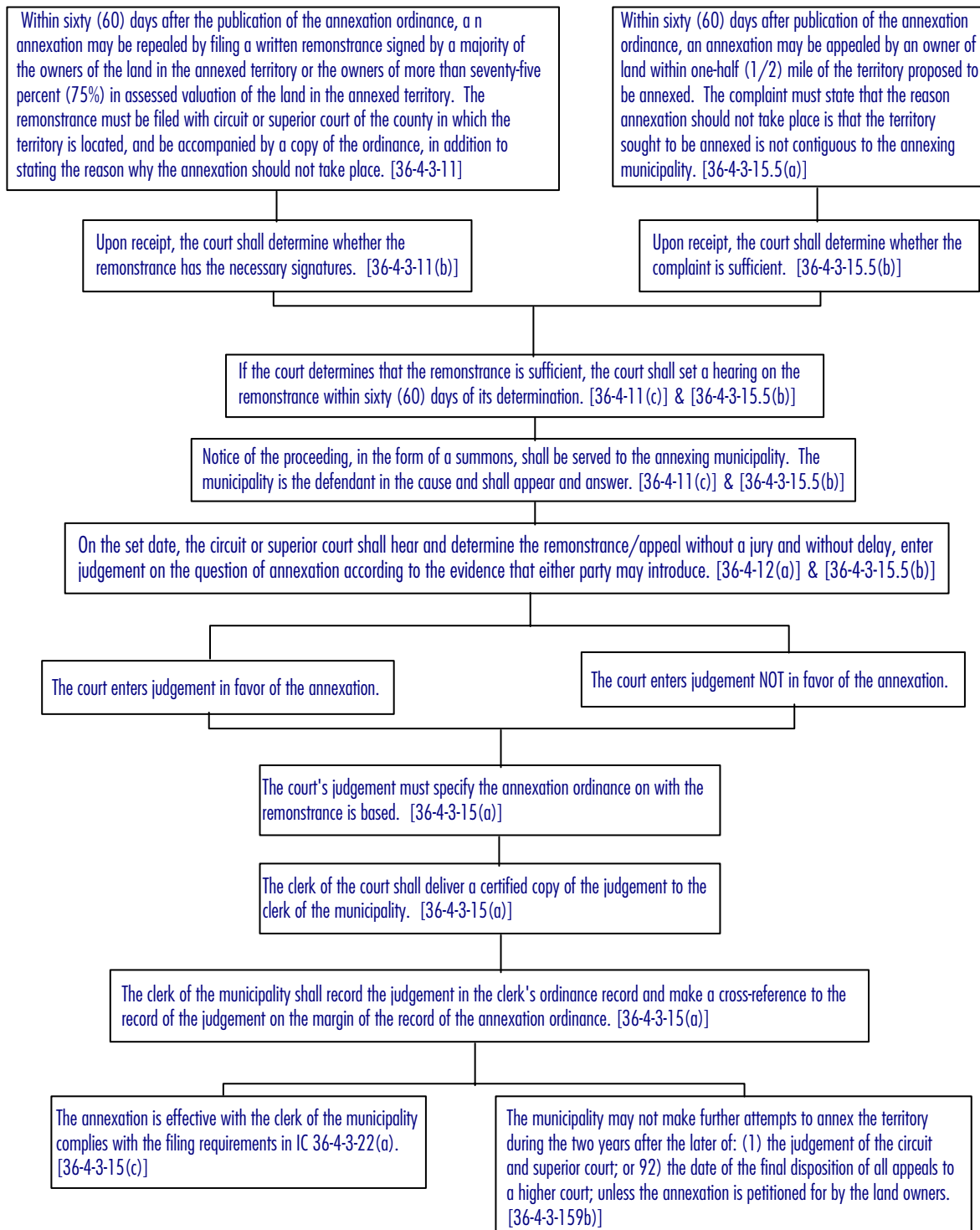


Figure 2: Annexation Filing Requirements



**Figure 3: The Remonstrance Process**





The courts must order the annexation if one of the following conditions is met:

1. *The area is 1/8 contiguous; the density of the territory is at least 3 persons/acre; 60 percent of the territory is subdivided; or the territory is zoned commercial, industrial, or business; OR*
2. *the territory is contiguous, except that at least one-fourth (1/4) rather than one-eighth (1/8) of the boundary must coincide with municipal boundaries; and the land is needed and can be used by the municipality for its development in the reasonably near future.*

In general, as long as municipal officials have followed procedures and requirements carefully, the court is required to approve the annexation ordinance.

## Special Provisions of the Indiana Annexation Law

Indiana law includes a number of provisions that establish the basic conditions and detailed requirements for annexation as well as a number of exceptions to the general provisions. As noted above, one-eighth of the boundary of the territory to be annexed must coincide with the municipal boundary, although in cases where density or land-use requirements are not as specific, the contiguity criterion is more demanding and requires that one-fourth of the boundaries coincide. Other provisions (IC 36-4-3-4) specify when or for what purposes land that is not contiguous to a municipality may be annexed. So long as it is to be used for a municipal airport, a regulated sanitary landfill, a golf course, or a hospital, and certain other conditions are met, municipalities may annex non-contiguous land.

Other provisions establish necessary operational details such as time frames for action, requirements for notice and filing, and time periods between repeated annexation proposals. These provisions are important because they comprise the basic ground rules that proponents and opponents must follow.

Some provisions in the law are not specific and apparently have been adopted to meet the needs of particular communities, allow for particular annexations, or solve particularly controversial or contentious local issues. For example, the section of the code that specifies when non-contiguous land can be annexed includes this provision (IC 36-4-3-4):

*This section applies to a municipality having a population of more than thirty-two thousand (32,000) but less than thirty-three thousand (33,000) that is located within a county having a population of more than seventy-three thousand (73,000) but less than seventy-five thousand (75,000). The legislative body of a municipality may, by ordinance, annex territory that:*

1. *is not contiguous to the municipality;*
2. *has its entire area not more than eight (8) miles from the municipality's boundary;*
3. *does not extend more than:*
  - A) *one and one-half (1 1/2) miles to the west;*
  - B) *three-fourths (3/4) miles to the east;*
  - C) *one-half (1/2) mile to the north; or*
  - D) *one-half (1/2) mile to the south;**of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and*
4. *is owned by the municipality or by a property owner that consents to the annexation.*

This provision is written obtusely and includes pseudo-objective requirements like population size so as to avoid legal challenges that it is unconstitutional special purpose legislation. The population requirements, however, are so narrow that they likely apply only to a single municipality. Clearly, some municipal officials wanted to annex property near an interchange some distance away that did not meet existing requirements and convinced legislator to sponsor legislation to enable the annexation. Special provisions

that clearly were written to enable a specific annexation raise equity issues but probably do not have significant impacts statewide because they become irrelevant after the annexation occurs. Other special provisions that are more general raise larger issues.

Perhaps the most significant special provisions in Indiana annexation law are those that essentially establish separate procedures for St. Joseph County, the county where South Bend is located. Although St. Joseph is not mentioned in the code, St. Joseph County is the only county in Indiana with a population between 200,000 and 300,000. The most important of the special provisions that apply to St. Joseph County involves remonstrances and requires courts to order annexations *not* to occur if all of three criteria are met (IC 36-4-3-13(e)):

1. *police and fire protection and road and street maintenance are adequately furnished by a provider other than the municipality seeking the annexation;*
2. *the annexation will have a significant financial impact on the residents or owners of the land; and*
3. *one of the following opposes the annexation:*
  - *a majority of the owners of land in the territory proposed to be annexed;*
  - *the owners of more than 75 percent in assessed valuation of the land in the territory proposed to be annexed.*

As long as a majority of owners agree, this provision gives owners of land in areas to be annexed in St. Joseph a measure of veto power over the municipality. Judges have no choice but to prohibit an annexation if evidence is provided that adequate services are available, the impact on residents will be significant and a majority of owners oppose it. Because the first two criteria are matters of degree and judgement, and the third (i.e., the majority) is objective and a matter of fact, it takes on special significance both judicially and in the processes of political decision making that lead to a vote to pursue annexation.

## 4.0 Annexations in Indiana: An Overview

To understand better the implications and potential repercussions of changes in the existing annexation law, it is necessary to estimate the extent or scope of annexation in Indiana. The intensity of the debates over controversial annexations has a tendency to overshadow non-controversial annexations and to inflate people's perceptions of its problems. In particular, contested cases seem more prevalent simply because they are more prominent, even though they appear to be less common than non-controversial cases. As will be demonstrated, cities and towns regularly annex property, more often than not, at the request of property owners or developers.

The following section describes recent annexations in Indiana. Following a brief discussion of methodology, data on the number of annexations in Indiana for the periods 1980-1990 and 1990-1995 are presented. More detailed information on annexations for the years 1996-1997 also are presented. This section concludes with an overview of annexation in Ft. Wayne during the past decade. Ft. Wayne is highlighted because more Hoosiers have been annexed in Ft. Wayne than in other city or town in Indiana and because the Ft. Wayne case illustrates a complex application of the annexation statute.

### Methodology

The data in this section come from editions of the *Municipal Year Book* (ICMA 1993, 1997), an annual publication of the International City/County Management Association (ICMA), files maintained by the

Indiana State Board of Tax Commissioners, an original IACIR survey of county and municipal officials, and various reports. Theoretically, documenting the number and types of annexations in Indiana should be a relatively easy task because state law requires all annexation ordinances to be filed in a central location with the state and because the federal Bureau of the Census periodically publishes information on boundary changes. Practically, the task is not so easy, because complete records do not exist at the state and publications like the *Municipal Year Book* that summarize data do not provide as much detail as is desired.

Data on annexations and boundary changes for municipalities in the United States periodically are published by the ICMA in the *Municipal Year Book*. The original data are compiled by the Bureau of the Census's Boundary and Annexation Survey. As noted in Section 2, the Boundary and Survey involves a check with state officials to confirm data submitted by the local officials. The *Municipal Year Book* reports the total number of annexations for these periods but provides detailed information only for particular municipalities that exceed certain populations (2,500 or 1,000, depending on the period in question) and have annexed a minimum number of people (1,000 or 500, depending on the period in question).

The research team also collected detailed information for 1996 and 1997. The initial, planned approach to inventorying annexations in Indiana was to review files at the State Board of Tax Commissioners and to use information from ordinances to categorize them. It soon became apparent, however, that the annexation files maintained by the state for at least the period between January 1, 1996, and July 1, 1997, were incomplete. The initial review had identified only about 60 ordinances in the file for each of 1996 and 1997. Following conversations with local officials about annexations that were not in the files, and when it was learned that state certifying official had been eliminated (see Section 2), the research team determined that the only way to estimate the extent of annexation activity would be to contact counties directly.

The following protocol was used for contacting counties and municipalities. First, the auditor's office in each county was contacted and asked for information about annexations that had occurred during 1996 and 1997 by municipalities within the county boundaries. If the information from the auditor's office was incomplete, the county recorder's office was contacted, and if the data still were incomplete, the county planning department or commission was contacted. If data still were missing, individual municipalities were contacted. In certain cases where information from municipalities and counties was difficult to obtain, IACT and AIC representatives were asked to assist in obtaining responses.<sup>1</sup>

Researchers attempted to collect information about the following: the effective date of the ordinance, acreage, land use, who initiated the annexation (the property owner or the municipality), assessed valuation, filings of remonstrances, waivers of rights to remonstrate, preparation of fiscal plans, tax abatements, and services to be provided. Not all pieces of information were available for each annexation, and some pieces of information require careful interpretation. For example, annexations are organized by the date ordinances were adopted because some ordinances did not include the actual effective dates of incorporation into the city.

A particularly important issue concerns whether annexations were initiated by property owners or by municipalities. This information is not reported in any straightforward way. Language in the ordinances and information from local officials was used to make this classification. If the language referred to a request to be annexed, then the annexations were classified as being initiated by property owners. If the language did not, they were classified as being initiated by municipalities. In some cases where information was very poor, researchers were unable to determine how to classify the annexation.

---

<sup>1</sup> The research team was unable to collect data from five counties.

People sometimes refer to annexations as being voluntary or involuntary depending on whether the annexation was initiated by the property owner or the municipality, respectively. The categories of voluntary and involuntary are not used in this report because of the difficulty in determining motivations for annexation from the annexation ordinances and other available services. Hoosiers who participated in the public forums during the course of this study made it clear that decisions by individuals to petition for annexation were not always voluntary. In certain cases, for example, annexations that appear to be initiated by property owners occurred as a result of negotiations between the municipality and the property owner, and would not have occurred had not the municipality had authority to annex over the property owner's objections. In other cases, annexations requested by property owners may have been initiated by municipalities for the sake of expediency.

The classification of who initiated the annexation therefore is an interpretive one. Because it was assumed that cases were initiated by municipalities when other information was unavailable, the number initiated by municipalities may be overestimated (i.e., the number of cases in which people wanted to be annexed may be underestimated). On the other hand, it is clear that people sometimes have agreed to be annexed because they have perceived they have no other choice (although whether they then would petition to be annexed is debatable). There are, therefore, some factors that suggest that the number of property owners who have initiated annexation may be lower than appears. In sum, the information presented here about the proportions of annexations initiated by municipalities and property owners is best interpreted as a good indicator of the relative frequency of each. The numbers should not be interpreted as precise counts.

The quality of other data is mixed, but useful conclusions still can be drawn. Acreage of the annexed territories generally was available and is believed to be reasonably accurate. Information about current and future land use is not as complete and is open to greater interpretation, in part because future uses change. Only limited information about the number of remonstrances was available: some unsuccessful remonstrances probably were not reported, and files involving successful remonstrances may not have been kept. Therefore the information reported here probably underestimates the actual number of remonstrances. Data on the assessed valuation of annexed properties were not been obtained for a majority of cases and so the estimates must be interpreted with caution.

Except for the information compiled by the Bureau of the Census Boundary and Annexation Survey, the data presented below are the only estimates of the number and types of Indiana annexations that have been made during the past two decades of debates over this issue. The estimates are believed to be a reasonable measure of the general level of activity, although, given the problems in reporting that have been identified, the data on which they are based almost certainly contain errors.

The data collection exercise also makes clear the need to improve administrative reporting processes. Better recording keeping could be required by statute. Although the 1997 records likely were confounded by the elimination of the state certifying official, the files at the State Board of Tax Commissioners for 1996 contained only about one-third of the annexations that eventually were identified for that year.

## Annexation in Indiana: 1980-1990 and 1990-1995

Annexation occurred regularly in Indiana in the 1980s and appears to be occurring more frequently in the 1990s. Between 1980 and 1990, 1,326 annexations occurred in Indiana (Miller 1993). These annexations added 58,000 people and 93 square miles to Hoosier municipalities. Indiana ranked 18<sup>th</sup> among the 50 states in number of annexations, was tied for 15<sup>th</sup> in population annexed, but was 27<sup>th</sup> among states in area annexed. The fact that Indiana ranked relatively high in population annexed but comparatively low in area annexed suggests the land annexed to municipalities in Indiana was more densely populated, or more urban, than in many other states.

Data are available by municipality for municipalities with populations of 5,000 or more that annexed at least 1,000 people and for municipalities with populations of less than 5,000 that annexed at least 500 people (Table 1). The 12 municipalities that met these thresholds accounted for about 15 percent of all annexations in Indiana in the 1980s. Their 202 annexations accounted for 36 percent of the total area annexed to municipalities and 69 percent of the total population annexed. It can be inferred from these data that the territory annexed in these 12 municipalities was more densely populated, or more urban, than the area included in the other 1,124 annexations. Fort Wayne completed more annexations and annexed more land and people than any other municipality in Indiana in the 1980s.

**Table 1: Reported Annexations in Indiana, 1980 - 1990, and 1990 - 1995**

YEARS: 1980 - 1990				YEARS: 1990 - 1995			
City	Population (000)	Square miles	Actions	City	Population (000)	Square Miles	Actions
<b>Cities <math>\geq</math> 5,000 that annexed at least 1000 people</b>				<b>Cities that annexed at least 1,000 people</b>			
Bloomington	1.4	1.3	16	Bloomington	4.4	4.7	27
Clarksville	5.5	1.9	3	Columbus	1.8	5.0	35
Evansville	7.7	5.4	6	Elkhart	3.4	3.2	34
Fort Wayne	10.3	10.4	48	Fishers	1.7	8.6	71
Greenwood	2.0	3.3	34	Fort Wayne	19.1	8.7	18
Jeffersonville	2.4	1.1	12	Hobart	2.7	10.1	4
New Haven	2.8	3.3	20	Jeffersonville	1.7	1.4	6
Noblesville	2.0	3.2	31	Lafayette	2.9	1.0	6
Rochester	1.0	....	4	New Haven	1.5	1.5	6
<b>Cities <math>\leq</math> 5,000 that annexed at least 500 people</b>				Plainfield	4.4	4.5	28
Cicero	0.8	0.2	2	Terre Haute	1.7	0.1	3
Sellersburg	3.6	2.2	15	Zionsville	1.6	0.6	8
Winona Lake	0.7	0.8	11				
<b>Totals</b>	<b>40.2</b>	<b>33.1</b>	<b>202</b>	<b>Totals</b>	<b>46.9</b>	<b>49.4</b>	<b>246</b>

**Sources:** Compiled from "Annexations and Boundary Changes in the 1980s" and "Boundary Changes," *Municipal Year Books* for 1993 and 1997 (Miller 1993, 1997).

Based on data for 1990-1995, annexation in Indiana appears to be increasing. Between 1990 and 1995, at least 812 annexations occurred in Indiana (Miller 1997).<sup>2</sup> These annexations added 57,600 people and 101 square miles to Hoosier municipalities. More land was added to Indiana municipalities through annexation in the first half of the 1990s than in all the 1980s, even though only 61 percent as many annexations

<sup>2</sup> The Census surveys small municipalities only in the three years preceding a decennial census. As such, this figure may underestimate the number of annexations during this period.

occurred. The population annexed in the first half of the 1990s was essentially equivalent to that for the 1980s.

Between 1990 and 1995, Indiana ranked 13<sup>th</sup> among the 50 states in number of annexations, was 11<sup>th</sup> among states in area annexed, but was 7<sup>th</sup> in population annexed. Again, the fact that Indiana ranked lower in number of annexations but higher in population annexed indicates that the land annexed was relatively densely populated.

Miller (1997) attributes Indiana's rise in ranking among states to aggressive annexation in Fort Wayne and new growth in Indiana (which remained relatively constant in population in the 1980s). Although Fort Wayne accounted for only 2 percent of the annexations in Indiana between 1990 and 1995, it accounted for 9 percent of all land, and approximately 33 percent of the total population, added to Hoosier municipalities through annexation (Table 1). On average, the land annexed in Fort Wayne was more densely populated than land annexed in other Indiana municipalities. Between 1990 and 1995, the number of annexations was greatest in Fishers (71), which accounted for about 9 percent of all annexations statewide. Fishers annexed nearly as much land as Fort Wayne, but only 9 percent of the population annexed there, and only about 3 percent of the population annexed statewide. Significant numbers of annexations also occurred in Columbus, Elkhart, Plainfield, and Bloomington.

This brief comparison of annexation in Fort Wayne and Fishers illustrates two different approaches or strategies for annexation. Fort Wayne clearly is annexing land that already is urbanized; Fishers apparently is annexing land in anticipation of growth. These different approaches have important implications: controversy is more likely if land already is developed.

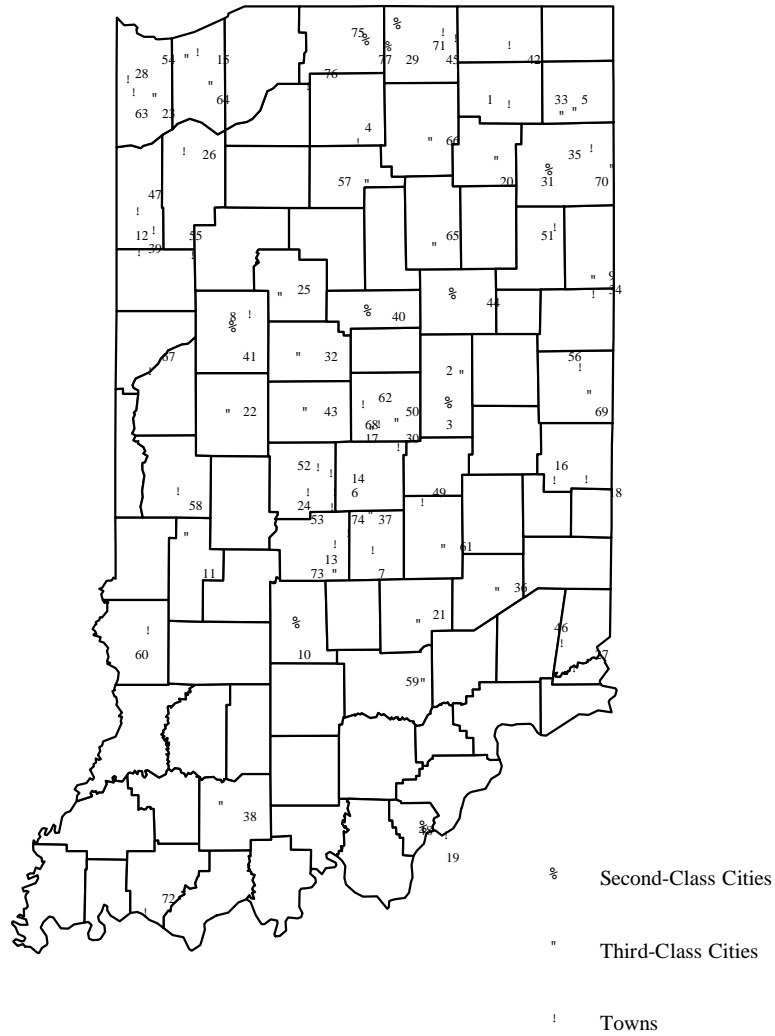
## **Annexation in Indiana: 1996-1997**

Based on information from counties, municipalities, and the files at the State Board of Tax Commissioners, annexation appears to have increased slightly in 1996 and 1997 relative to 1990 to 1995 (see Footnote 2). While the average annual number of annexations between 1990 and 1995 was 162, at least 378 annexations appear to have occurred during 1996-1997, for an average of just under 190 per year. Although high proportions of annexations have occurred in a relatively small number of municipalities, about 20 percent of Indiana's 568 municipalities appear to have annexed land in the past two years. The data suggest that annexation usually is initiated by property owners, generally involves land in residential and agricultural use, and rarely involves tax abatements.

### **Number and Location of Annexations**

In 1997, 193 annexation ordinances were passed by 78 municipalities in 48 counties (Map 1). Similarly, 77 communities in 47 counties passed 185 ordinances in 1996 (Map 2). Based on data available thus far, 111 different communities passed at least 378 annexation ordinances over the two-year period (Table 2). Twenty-six counties reported no annexation activity.

**Map 1: Indiana Cities and Towns that Annexed Land in 1996**



**Map 2: Indiana Cities and Towns that Annexed Land in 1997**

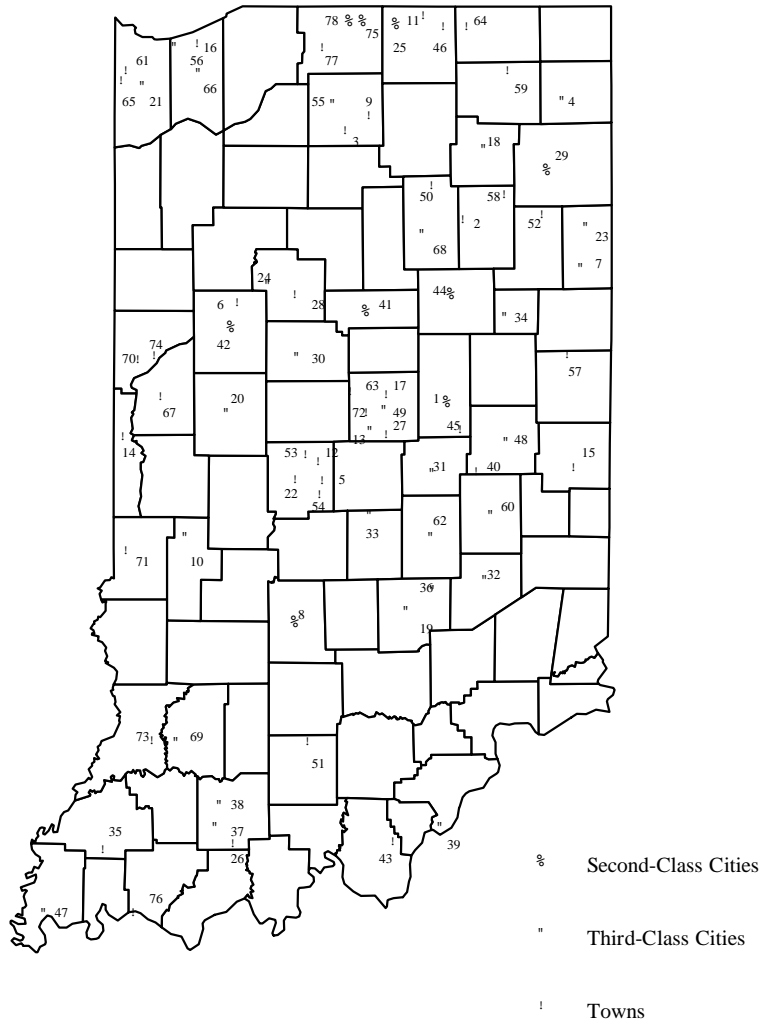




Figure 1: Key to Maps 1 and 2

Number on Map	Map 1 (Cities and Towns that Annexed Land in 1996 — Number of Annexations)	Map 2 (Cities and Towns that Annexed Land in 1997 — Number of Annexations)
1	Albion — 1 annexation	Anderson — 1 annexation
2	Alexandria — 3	Andrews — 1
3	Anderson — 2	Argos — 2
4	Argos — 1	Auburn — 5
5	Auburn — 2	Avon — 7
6	Avon — 1	Battle Ground — 3
7	Bargersville — 4	Berne — 1
8	Battle Ground — 3	Bloomington — 6
9	Berne — 1	Bourbon — 1
10	Bloomington — 8	Brazil — 1
11	Brazil — 1	Bristol — 1
12	Brook — 1	Brownsburg — 3
13	Brooklyn — 1	Carmel — 2
14	Brownsburg — 6	Cayuga — 1
15	Burns Harbor — 1	Centerville — 2
16	Cambridge City — 1	Chesterton — 1
17	Carmel — 6	Cicero — 1
18	Centerville — 1	Columbia City — 1
19	Clarksville — 1	Columbus — 4
20	Columbia City — 2	Crawfordsville — 4
21	Columbus — 3	Crown Point — 1
22	Crawfordsville — 3	Danville — 4
23	Crown Point — 1	Decatur — 3
24	Danville — 4	Delphi — 5
25	Delphi — 1	Elkhart — 13
26	De Motte — 1	Ferdinand — 1
27	Dillsboro — 2	Fishers — 4
28	Dyer — 1	Flora — 1
29	Elkhart — 3	Fort Wayne — 2
30	Fishers — 8	Frankfort — 2
31	Fort Wayne — 3	Greenfield — 2
32	Frankfort — 1	Greensburg — 2
33	Garrett — 2	Greenwood — 3
34	Geneva — 1	Hartford City — 1
35	Grabill — 3	Haubstadt — 1
36	Greensburg — 1	Hope — 1
37	Greenwood — 1	Huntingburg — 4
38	Jasper — 1	Jasper — 4
39	Kentland — 1	Jeffersonville — 2
40	Kokomo — 1	Knightstown — 1
41	Lafayette — 1	Kokomo — 1
42	Lagrange — 1	Lafayette — 5
43	Lebanon — 1	Lanesville — 1
44	Marion — 1	Marion — 2
45	Middlebury — 1	Markleville — 1
46	Milan — 1	Middlebury — 7
47	Morocco — 1	Mount Vernon — 1

Figure 1: Key to Maps 1 and 2 (con't)

Number on Map	Map 1 (Cities and Towns that Annexed Land in 1996 — Number of Annexations)	Map 2 (Cities and Towns that Annexed Land in 1997 — Number of Annexations)
48	New Albany — 3 annexations	New Castle — 5 annexations
49	New Palestine — 1	Noblesville — 7
50	Noblesville — 9	North Manchester — 1
51	Ossian — 1	Orleans — 1
52	Pittsboro — 1	Ossian — 1
53	Plainfield — 5	Pittsboro — 2
54	Portage — 1	Plainfield — 2
55	Remington — 1	Plymouth — 2
56	Ridgeville — 1	Portage — 1
57	Rochester — 2	Ridgeville — 2
58	Rockville — 1	Roanoke — 1
59	Seymour — 18	Rome City — 1
60	Shelburn — 1	Rushville — 1
61	Shelbyville — 6	Schererville — 1
62	Sheridan — 1	Shelbyville — 5
63	St. John — 1	Sheridan — 5
64	Valparaiso — 2	Shipshewana — 2
65	Wabash — 1	St. John — 1
66	Warsaw — 2	Valparaiso — 3
67	West Lebanon — 6	Veedersburg — 1
68	Westfield — 4	Wabash — 5
69	Winchester — 4	Washington — 1
70	Woodburn — 3	West Lebanon — 1
71	Bristol — 1	West Terre Haute — 1
72	Chandler — 1	Westfield — 1
73	Martinsville — 2	Wheatland — 1
74	Mooreville — 1	Williamsport — 1
75	South Bend — 2	Mishawaka — 7
76	Walkerton — 1	Newburgh — 1
77	Mishawaka — 6	North Liberty — 2
78		South Bend — 4

Table 2: Annexations in 1996 and 1997 by Class of City and Town

	Second-Class Cities (number)	Third-Class Cities (number)	Towns (number)	Total (number)
<b>Different Cities or Towns</b>				
1996	10	27	40	77
1997	9	29	40	78
<b>Number of Annexations</b>				
1996	30	80	75	185
1997	41	79	73	193
Total	71	159	148	378
<b>Acreage Annexed**</b>				
1996	957	2,895	4,194	8,046
1997	5,166	7,089	3,682	15,937
Total	6,123	9,984	7,876	23,983

\*\*All estimates are underestimates of actual acreage annexed because acreage data were not available for all cases.

The municipalities with the greatest number of annexations in each of 1996 and 1997 are listed in Table 3. Fourteen municipalities accounted for 94, or 51 percent, of all annexations in 1996. Similarly, 13 municipalities accounted for 82, or approximately 42 percent, of all annexations in 1997. Although data are incomplete, these municipalities accounted for approximately 52 percent and 68 percent, respectively, of the total acreage added to Hoosier municipalities through annexation in 1996 and 1997.

Table 3: Municipalities with greatest number of annexations in 1996 and 1997

1996			1997		
Municipality	Number of Annexations*	Estimated Acreage Annexed	Municipality	Number of Annexations*	Estimated Acreage Annexed
1. Seymour	18	72.3	1. Elkhart	13	1247.29
2. Noblesville	9	463.04	2. Avon	7	1063
3. Bloomington	8 (5)	199	3. Middlebury	7	338.5
4. Fishers	8	459.44	4. Mishawaka	7	70.14
5. Brownsburg	6	1156.87	5. Noblesville	7 (5)	2821.28
6. Carmel	6 (5)	439.77	6. Bloomington	6	190.9
7. West Lebanon	6	15.01	7. Auburn	5	691.62
8. Mishawaka	6	29.41	8. Delphi	5	559.48
9. Shelbyville	6	527.41	9. Lafayette	5	2649.5
10. Plainfield	5	242.65	10. New Castle	5	57.41
11. Bargersville	4 (3)	15.44	11. Shelbyville	5	39
12. Danville	4	107.25	12. Sheridan	5	174
13. Westfield	4	282.78	13. Wabash	5	980.92
14. Winchester	4	145.2			
<b>Totals</b>	<b>94</b>	<b>4,155</b>		<b>82</b>	<b>10,883</b>

\*Numbers in parentheses are number of cases for which acreage estimates are available if less than the total.

Annexation may occur in all municipalities in Indiana except Indianapolis, which is prohibited by law from annexing land outside Marion County. Annexation by class of city and town is reported in Table 2. The

annexation statute was used by more towns than either second- or third-class cities in both 1996 and 1997, although the number of annexations was greatest in third-class cities. Only 19 percent of the annexations in Indiana in 1996 and 1997 were undertaken by second-class cities. Similarly, more land was annexed in third-class cities than in either towns or second-class cities. The best estimate is that 3rd class cities accounted for approximately 42 percent of the acreage added to municipal boundaries in 1996 and 1997.

### Initiation of Annexation

Researchers were able to classify who initiated annexation for 89 percent and 74 percent, respectively, of the annexations occurring in 1996 and 1997. Among these cases, a majority appears to have been initiated by property owners. The best current estimate is that in 1997, approximately 60 percent (103 of 171 cases) were initiated by property owners. In 1996, the best estimate is that 67 percent of the annexations (91 of 136) were initiated by property owners. Although data are not available, it is likely that many of these cases involve petitions by developers who seek annexation in exchange of extension of utilities and other services. As noted previously, there is ambiguity in these data because of the method of classification and because the motivations for annexation are themselves ambiguous. The best interpretation is that municipalities do not initiate the majority of cases.

### Area Annexed

Municipalities added at least 15,937 acres of land to their boundaries in 1997, and at least 8,046 acres in 1996. The total acreage added was more than these estimates because some annexations are not accounted for. For those annexations for which data are available, the average area annexed in 1997 was 88.0 acres. The comparable figure for 1996 was 46.5 acres.

### Land Uses Annexed

Information about the type of land that was annexed was available for approximately 77 percent of the cases in 1997 and 74 percent of the cases in 1996. Land annexed to municipalities in 1996 and 1997 typically was in residential or agricultural use. More than one-quarter of property annexed was classified as residential (28 percent in 1997; 26 percent in 1996), and more than one-fifth of property was classified as agricultural (22 percent in 1997; 20 percent in 1996).

### Tax Abatements

Ordinances were reviewed to determine whether property owners were granted tax abatements as a part of annexation. The use of tax abatements could be determined for only 85 percent of all annexations. Among these cases, few annexations involved tax abatements. In both years, municipalities granted property owners tax abatements in four percent of the cases.

### Fiscal Plans and Service Delivery

As noted in Section 2, while state law requires that fiscal plans be prepared when municipalities initiate annexation it is vague when outlining the requirements for whether fiscal plans for annexations initiated by property owners. Based on information in ordinances or other data from local officials, over two-thirds of the annexations in 1997 involved preparation of fiscal plans. In 1996, the percentage was smaller (58 percent). State law requires that municipalities provide services to annexed areas that are comparable to those provided to similar areas within the municipality. Based on language in ordinances, a majority of annexations involved the provision of both capital and non-capital services to the newly annexed areas. In some cases, capital infrastructure may have been in place prior to annexation.

## Remonstrances and Waivers of Rights to Remonstrate

As noted, data about remonstrances are difficult to collect, partly because judgements favorable to the remonstrators do not require filing with the county auditor or the state certifying official. Very few cases (less than 3 percent) in both 1996 and 1997 appear to have involved remonstrances. Because of the absence of reporting requirements, this estimate probably is an underestimate of the actual percentage of remonstrances. In addition, this estimate should not be interpreted as an indicator of controversy over annexation. Some people have reported that they have chosen not to remonstrate because, given the requirements of Indiana's annexation law, they believe that their likelihood of success is too small to warrant the expense of remonstrating.

The majority of annexations also do not appear to be affected by agreements not to remonstrate in exchange for the extension of municipal services. Of the cases for which data are available (116 in 1996 and 154 in 1997), only three percent of cases in 1996 and nine percent of cases in 1997 involved waivers. These percentages underestimate the proportion of cases in which annexation involves agreements not to remonstrate. Opponents of annexation assert, and local officials agree, that annexation often occurs only after informal negotiations have occurred and the terms of annexation confirmed.

## Annexation in Fort Wayne

As evidenced by the data presented in the previous sections, Fort Wayne has been more aggressive than any other municipality in Indiana in annexing land and population. In part because the city has been so aggressive, its efforts to annex have generated controversy. Both because of the controversy and because the Fort Wayne case demonstrates a planned, systematic approach to annexation, it is useful as an illustrative case study.

Fort Wayne's annexation strategy of the 1980s and 1990s can be traced to a comprehensive annexation study completed by the Department of Community Development and Planning in 1975. *The Annexation Policy and Program Study* recommended that "all urban land contiguous to the city limits should become part of the city" as should "all non-urban land *required* to complement the annexation of urban land and to provide the ability to control and manage urban growth." The study recommended annexation of three large suburban parcels at the city's northeast, north, and southwest borders. In 1988, after the election of Paul Helmke as mayor, the city adopted an aggressive large-scale annexation strategy. This strategy was designed to annex the northeast, north, and southwest areas in three separate but related large-scale ordinances.

Fort Wayne's annexation strategy comprised three parts:

- a "grand strategy" to annex large sections of suburban development in a phased-in sequence;
- a neighborhood negotiation program incorporating an innovative tax abatement plan; and
- commitment of high-level staff and legal resources in preparation for remonstrances and legal challenges.

## The Northeast Annexations

Within the grand strategy, the highest priority geographic target was the northeast suburban area in St. Joseph Township where the heaviest development had occurred and residents had remonstrated successfully against piecemeal annexations for two decades (Map 3). Implementation of the new strategy resulted in significant growth of the city (Table 4). In the first three phases covering a five-year span (1989-1994), the city added 15,264 citizens and 3,338 acres to its boundaries. Northeast Phase Four, which took effect in 1997, increased population by an additional 7,400 people and added 1,690 acres to the city.

When developing their strategy, city officials recognized that simultaneous annexation of all areas in the northeast was challenging because they lacked the administrative and financial wherewithal to deliver a package of municipal services in an equitable time frame acceptable to the court. To deal with this problem they developed a strategy for phasing in the annexations that took advantage of provisions in the state annexation statute (Indiana Code 36-4-3-8.5) that allow for the deferral of the effective date on which an annexation is completed. City planners prepared a single ordinance that annexed the entire northeast area, but staged the effective date in four time sequenced phases (Table 4).

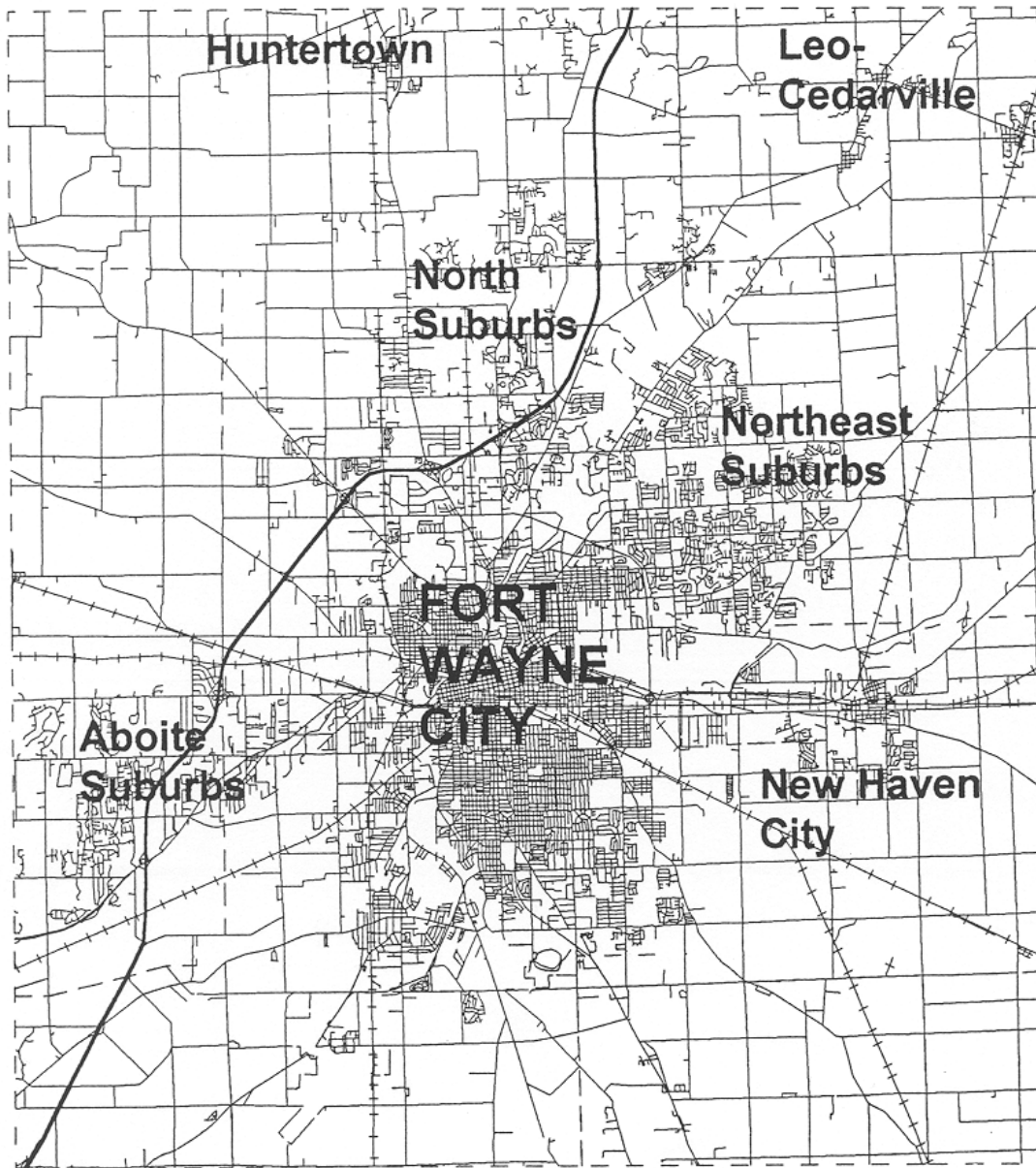
**Table 4: Annexation Schedule and Characteristics of Four Northeast Annexations.**

Annexation	Passed By Council	Effective Date	Population (1990)	Size (Acres)	Dwelling Units	Assessment (Dollars)
NE Phase 1	02/14/89	09/21/91	5,091	1,290	1,697	35,649,500
NE Phase 2	02/14/89	12/31/91	3,470	880	1,388	21,440,410
NE Phase 3	02/14/89	12/31/94	6,703	1,168	2,370	19,000,000
NE Phase 4	02/14/89	12/31/97	7,400	1,690	2,187	33,000,000

The strategy of phasing in the annexation plan had financial and political, as well as technical, dimensions. From a technical perspective, the strategy provided for the contiguity requirement that 1/8 of the annexed territory boundary be contiguous with the annexing city's current boundary. Each new phase provided the contiguity base for the next phase. From a financial perspective, it allowed the city to incorporate revenues collected from Phase I in the fiscal plan for Phase II, and so on for successive phases. From a political perspective, officials believed that the approach might help to mitigate the concerns of some residents. Because a larger number of residents lived in Phases III and IV rather than in Phases I and II (see Table 4), they were thought to be less likely to sign a remonstrance petition or to contribute to the legal fund to pursue the issue in court than residents more immediately affected in Phases I and II.

At the same time it announced the phased strategy, Fort Wayne began a series of negotiations with people in the neighborhoods to be annexed to help mitigate opposition. One tactic involved a series of town meetings with neighborhood associations in which citizens were able to negotiate for specific improvements that exceeded the standard package of municipal services or, using one provision of state law (IC. 36-4-3-8.5), for tax abatements. Although most neighborhoods were not offered or did not negotiate for different levels of service, Fort Wayne ultimately did phase in new municipal property taxes over a two-year period for residents in Northeast Phases I and II. Residents in Phase I were abated 66 percent of their first year tax bill and 33 percent the second year. With the passage of the ordinance in 1989 and an effective date set for 1991, property in Phase I was not assessed until 1992 for payment at an abated rate in 1993. In effect, residents were not required to pay a full tax bill until 1994—five years after the ordinance was passed. Phase II residents were abated 50 percent of their first year's tax bill.

### Map 3 Fort Wayne City and Suburbs



Source: MapInfo 4.1, Geographic Information System Software

Although the city planned its strategy carefully, it did not address the concerns of many people who opposed the annexations, and there was significant controversy over them. People organized and campaigned vigorously against the annexation, and organized an aggressive remonstrance petition drive. A judge, however, determined that the remonstrators failed to secure the legally required number of valid signatures on their remonstrance petition and dismissed the case, and technical issues never were considered.

Several factors contributed to the failure of the opponents to obtain the requisite number of signatures. The city had aggressively marketed the idea that the northeast growth pattern was clearly in the path of normal urban expansion. Some residents may have viewed annexation as inevitable or as the “right thing to do” and therefore did not sign a petition. Other residents thought the tax abatement agreement was reasonable and did not sign. Some residents previously had signed remonstrance waivers when they hooked up to the city sewer system and were not eligible to sign petitions (or were invalidated by the judge). Residents in a neighborhood called Hacienda Village who agreed to accept new sewers signed new waivers in return. Proportionately fewer people in later Phases III and IV signed petitions than did those in the more immediately impacted Phases I and II.

### The North and Southwest Annexations

Annexation proposals for the north and southwest areas were comparable in scale to the Northeast annexation but did not involve negotiations over additional services or tax abatements. The North annexation was adopted in three phases that included two effective dates four years away (Table 5). In sum, the North annexation added 9,959 persons and 6,764 acres to the city. The north annexation differed from the northeast annexation in that it relied on different statutory criteria as a basis for the third phase of the annexation. As noted in Section 2, municipalities can annex land so long as one of two criteria are met. The first criterion requires one-eighth contiguity of boundaries and establishes a minimum density of three persons per acre. The second criterion requires that an area be one-fourth contiguous but only that the area be “needed and can be used by the municipality for its development in the reasonably near future.” The third phase, which was annexed for future industrial growth and was based on the second criterion, involved a large area (1,376 acres) with few dwelling units (67 structures) and a small population (187).

**Table 5: Annexation Schedule and Characteristics of Three North Annexations.**

Annexation	Passed By Council	Effective Date	Population (1990)	Size (Acres)	Dwelling Units	Assessment (Dollars)
North I	03/09/93	01/01/01	3,129	2,775	1,011	29,014,110
North II	03/10/93	12/31/02	6,643	2,613	2,289	72,202,908
North III	12/19/95	12/31/02	187	1,376	67	33,000,000

Like the northeastern annexation, the north annexation also was contested. Remonstrators worked actively to overturn the annexation, but the annexation was upheld when a judge ruled that there were insufficient valid signatures for a court review.

The southwest annexation, which still is being debated at the time of this writing and, as noted in Section 1, is the subject of considerable controversy, is comparable in area and population to the northeastern and north annexations but different in other important respects. One important difference is that the southwest annexation includes no phasing of effective dates—the entire 8,228 acres are scheduled to come into the city at one time. The effective date has been set as January 2006. Unlike the northeast annexation, but like the north annexation, no property tax abatements or additional service incentives are included in the



southwest package. Another important difference between the areas is that the property tax assessment in the southwest area (\$262,100,730) is more than twice the property assessments in northeast and north (Table 6).

**Table 6: Annexation Schedule and Characteristics of the Southwest Annexation**

Annexation	Passed By Council	Effective Date	Population (1990)	Size (Acres)	Dwelling Units	Assessment (Dollars)
Southwest	12/03/96	01/01/06	15,215	8,228	6,975	262,100,730

The outcome of the southwest annexation still remains to be decided. Unlike opponents to the northeast and north annexations, the opponents were successful in obtaining the number of signatures (51 percent) required to remonstrate. The remonstrance petition has been validated by the county auditor and by the courts. The annexation is now in the evidence-gathering stage in a change of venue court in nearby Noble County.

## 5.0 Taxes Affected by Annexation

As noted in previous sections, municipalities often have economic reasons for annexing property, and property owners opposed to increases in property taxes often oppose annexation bitterly. To understand these motivations, it is useful to examine the number and types of taxes that are affected when annexation occurs.

Including the property tax, annexation can change revenues to municipalities and other local jurisdictions from up to 13 different taxes in Indiana (Table 7).<sup>3</sup> Revenues to local jurisdictions from these taxes change directly because of the changes in assessed value that result from the annexation or indirectly because the distribution methods for particular revenues take into account factors such as share of levy, population, or mileage that usually change when annexation occurs. The change in a civil city or town's property tax revenues or levy will affect the distribution of each of the three forms of local option income tax. The increase in the civil city or town's property tax levy also will affect the distribution of auto rental excise tax among the county's taxing units.

Because annexation typically increases the population of the annexing city or town, those state and local revenue distributions that are based either wholly or partly on population also are affected. State revenue distributions likely to be affected therefore include all gasoline taxes (some distributions are affected by changes in road mileage); the cigarette and tobacco products tax; and the alcoholic beverage tax. The principal local taxes affected by a change in population are the county motor vehicle excise surtax and the county wheel tax. Motor vehicle excise tax distributions are affected by changes in the tax district of the vehicle owner and changes in property tax levy.

<sup>3</sup> Data regarding various taxes levied in Indiana comes from *the Indiana Handbook of Taxes, Revenues, and Appropriations* published annually by the Indiana Legislative Services Agency.

Table 7: State and Local Tax Revenues Affected by Annexation

Revenue Type	Number of Counties	Revenue Base	Distribution Method	Taxing Units Affected by an Annexation
Property Taxes	92	Taxing Unit	Levy = Assessed Value (Tax Rate)	One or More Individual Units
<b>Local Income Taxes</b>				
CAGIT	53 (CY 96)	County	Share of Levy	All Taxing Units in County
COIT	25 (CY 96)	County	Share of Levy	All Taxing Units in County
CEDIT	50 (FY 96)	County	Share of Levy	County and all Cities, Towns
<b>Auto and Fuel Taxes</b>				
Auto Rental Excise	92	County of Rental	Share of Levy	All Taxing Units
Motor Vehicle Highway Fund	92	State	Population/Mileage	County, Cities, Towns
Local Road and Street Fund	92	State	Population/Mileage	County, Cities, Towns
Special Distribution Account	92	State	Population/Mileage	County, Cities, Towns
County Motor Vehicle Surtax & County Wheel Tax	18 (CY 95)	County	Population/Mileage	County, Cities, Towns
Motor Vehicle Excise	92	Tax District	Share of Levy	All Taxing Units in County
<b>Cigarette and Alcohol Taxes</b>				
Cigarette & Tobacco Products	92	State	Population	Cities, Towns
Alcoholic Beverage	92	State	Population	Cities, Towns

\*CY = Calendar Year; FY = Fiscal Year, July 1 – June 30

\*\*A tax district may be composed of all or a portion of the following taxing units: county, township, school, library, civil city or town, and special taxing districts.

The two most important tax-related changes that result from annexation are:

- (1) an increase in property taxes for taxpayers within the annexed area, usually resulting from the addition of a civil city or town tax rate to the taxpayer's previous tax rate; and
- (2) an increase in property tax revenues for the civil city or town that annexed new territory.

It is possible that property taxes for taxpayers within a municipality that has annexed property could decrease. Whether this change occurs depends on whether the costs to serve the new area are less than the new tax revenues. Another change that occurs in some but not all annexations is a decrease in tax revenues for another taxing district such as a county, township, or special district such as a fire district. Taxing units that are diminished because of annexation often do not lose revenues from property taxes but do lose revenues from other taxes based on proportionate share of levy or population.

## Changes in Property Taxes

### Implications for Individual Taxpayers

The potential change in an individual's property tax bill often is one of the most contentious annexation issues. No one disputes that the taxpayers' property tax bill within the area to be annexed will increase.

The way that property taxes change can be illustrated best with examples. These examples are purely hypothetical and meant to demonstrate the mechanics of changes in taxes.

Assume that a hypothetical Indiana county has a pre-annexation tax rate of \$7.97 per \$100 of assessed value and that *taxpayers within the area to be annexed* pay according to the following schedule:

County:	\$2.41 per \$100 of assessed value
Township:	\$0.20 per \$100 of assessed value
Library:	\$0.48 per \$100 of assessed value
<u>School:</u>	<u>\$4.88 per \$100 of assessed value</u>
Total	\$7.97 per \$100 of assessed value

In this case, a residence with an assessed value of \$15,000 would have a tax bill of \$1,196.

Assume also that *taxpayers in the imaginary city or town annexing the property* have a tax rate composed of the following units:

County:	\$2.41 per \$100 of assessed value
Township:	\$0.20 per \$100 of assessed value
Library:	\$0.48 per \$100 of assessed value
School:	\$4.88 per \$100 of assessed value
<u>Civil City:</u>	<u>\$2.54 per \$100 of assessed value</u>
Total	\$10.51 per \$100 of assessed value

In this case, the city taxpayers' total tax rate would be \$10.51 per \$100 of assessed value: the only difference is the addition of the civil city tax rate of \$2.54. The total tax bill for a municipal property owner for a residence with an assessed value of \$15,000 would be \$1,577.

If all other rates remained unchanged, the taxpayer being annexed would pay \$381 (32 percent) more in property taxes annually. Although this example is hypothetical the change is of the order of magnitude of changes in many annexations in Indiana.

However, in exchange for added taxes, the newly annexed taxpayer will receive additional or improved services. These services likely will include some combination of administrative services (planning, zoning, building inspections), police protection, fire protection, street and road improvement (upgraded standards, snow removal, streetlights, fire hydrants, and/or signage), wastewater and stormwater services, sanitation services, and parks and recreation.

In this simple example the two areas share school districts and library districts, and the only change is the addition of the municipal tax rate. In some annexations, taxpayers also may change school districts or be added to a library district or other special service district. In these situations, the taxpayer being annexed may pay other new taxes. The magnitude of any of these new taxes depends entirely on the specific property being annexed and the tax rates in the jurisdictions.

Although many people complain about the magnitude of increases in taxes, it is important to point out that many taxpayers may not suffer the full burden of the increase. Although property taxes still will increase, property owners who itemize deductions on their federal income tax forms will reduce their adjusted gross income and save proportionately depending on their tax bracket (i.e., depending on the marginal rate at which they are taxed).

## Property Tax Changes for the Annexing Civil City or Town

In many but not all annexation cases, the civil city or town is the only taxing unit whose property tax base changes (increases). A taxing unit is better thought of as a unique service delivery provider than a unique geographic area. The geographic bounds of taxing units often overlap and share portions of the same tax base. As illustrated in the preceding example, the expansion of a civil city or town's tax base does not automatically reduce the tax base of the county, township, school district, and library taxing units.

Annexation may increase or decrease a municipal tax rate: the rate does not automatically increase. The civil city or town will increase its tax levy (the amount of property tax revenue it collects) to meet the increased cost of providing additional services.<sup>4</sup> In annexation cases where the growth in tax base (assessed value) exceeds the increase in levy, a taxing unit's tax rate actually may decline. The following example illustrates this possibility. Again, the example hypothetical and designed only to illustrate the mechanics of the changes in taxes. The magnitude of changes in this example is not representative of changes of any particular annexation. For instance, assume that following an annexation, the levy in a municipality increases by \$1,000 (10 percent). Assuming an increase of \$50,000 (50 percent) in tax base, the tax rate for all residents of the district declines from \$10 to \$7.33 per \$100 of assessed valuation (i.e., from 10 percent to 7.33 percent). Taxpayers in the newly annexed area, of course, still would experience an increase in their tax rate and tax bill. It is situations like these that prompt municipalities to annex property.

	Levy	Tax Base AV	Tax Rate
Pre-Annexation	\$10,000	\$100,000	10%
Post-Annexation	\$11,000	\$150,000	7.33%

The converse, however, also could occur: municipalities could annex property that has insufficient tax base. In these cases, the municipal rate would increase.

The statutory requirement that municipalities prepare fiscal plans is designed to ensure that municipal officials, property owners, and other local officials understand fully the financial implications of particular proposed annexations. As will be illustrated in the next section on fiscal plans, municipalities considering annexation encounter both situations

## Property Tax Changes for Other Taxing Units

Another possible outcome is that the expansion of a taxing unit's service area may overlap the service delivery area of another taxing unit and, as a result, reduce the tax base of that unit. In these cases, the other taxing unit usually experiences a reduction in service demand. The mechanics of this type of change are illustrated in the following example. Assume that annexation of an area by a civil city or town results in the annexed area being served by the city library district rather than the county library district. In this case, the countywide library district's pre-annexation tax base of \$800,000 of assessed value would be reduced by assessed value of the property annexed by the civil city and city library (\$100,000). The significance of these changes depends on the respective tax rates and on the actual changes in costs of service delivery that occur. It should be noted that the annexation does not affect the tax base of the county taxing unit.

<sup>4</sup> The State Board of Tax Commissioners, in fact, may grant permission to a civil taxing unit to exceed levy limitations to pay for increased service costs resulting from annexation.

	County Tax Base AV	County Library Tax Base AV	City Library Tax Base AV
Pre-Annexation	\$1,000,000	\$800,000	\$200,000
Post-Annexation	\$1,000,000	\$700,000	\$300,000
Change	—	\$(100,000)	\$100,000

## Revenue Distributions Based on Property Tax Levy

An annexation related change in a civil city or town's property tax revenues or levy will affect the distribution of any of the three forms of local option income tax that may have been adopted within the county. The increase in the civil city or town's property tax levy also will affect the distribution of certain excise taxes among the county's taxing units.

### Local Option Income Taxes

The state of Indiana permits the adoption of three forms of local option income tax:

- County Adjusted Gross Income Tax (CAGIT);
- County Option Income Tax (COIT); and
- County Economic Development Income Tax (CEDIT).

All three must be adopted on a countywide basis. The principal difference among the three lies in how the revenue is distributed and the permitted uses of the revenue.

CAGIT is a countywide local option income tax paid by income-earning residents of the adopting county and by individuals who work in the adopting county and reside in a county that has not elected to impose any form of local option income tax. The CAGIT rate may be set at 0.5 percent, 0.75 percent, or 1 percent. Non-residents who reside in counties that have not adopted and optional income tax pay .25 percent. CAGIT may not be imposed in counties that have adopted the County Option Income Tax form of local income tax. In CY1996, CAGIT generated \$235,521,731 of tax revenue in 53 counties.

CAGIT revenues are distributed the following manner, and special rules apply to distribution of revenues from future increases in taxes.

(1) The first 25 percent of CAGIT revenue are distributed to all taxing units as property tax replacement credits. Property tax replacement credits are used to reduce the amount of property tax revenue collected from local property owners. This portion of CAGIT revenue is distributed based on the relative amount of property tax levy of each taxing unit within the county. Thus, if a taxing unit's share of property taxes equaled three percent of all property taxes collected in the county, the taxing unit would receive three percent of the CAGIT funds distributed under this portion of the formula.

(2) The second 25 percent of a county's CAGIT revenue are distributed only to civil units of government. This means that this share of CAGIT is not provided to school corporations, but is provided to the county, libraries, townships, and the cities and towns within a county. This portion of CAGIT also is distributed based on the relative amount of property tax levy by each eligible (civil) taxing unit within the county. This portion of CAGIT revenue must be used for property tax relief.

(3) The third 25 percent of a county's CAGIT revenue are intended to replace the federal revenue sharing revenues that are no longer distributed. This share of CAGIT funds is

distributed only to civil units of government, including, county, libraries, townships, and city and towns, that received revenue sharing funds from the federal government. This portion of CAGIT also is distributed based on the relative amount of property tax levy by each eligible (civil) taxing unit within the county.

(4) The final 25 percent of a county's CAGIT revenue are distributed to all civil units of government, and are once again based on the taxing units' relative share of property tax revenues within the county. The civil taxing units are not limited in their use of this portion of CAGIT revenues.

COIT is the second form of countywide local option income. The tax is paid by income earning residents of the adopting county and by individuals who work in the adopting county but reside in a county that has not elected to impose any form of local option income tax. COIT's initial rate is set at 0.2 percent and annually increases by 0.1 percent until the rate reaches 0.6 percent. After reaching 0.6 percent, if a county wishes to further increase its rate, it may by ordinance increase the rate by 0.1 percent per year. The maximum COIT rate is one percent. As with all forms of local option income tax, individuals who work in the adopting county but reside in a county that has not elected to impose any form of local option income tax pay 25 percent of the adopting county's rate. In 1996 (CY), 25 counties had adopted COIT and it generated over \$291 million of local revenue.

COIT revenues are distributed in proportion to the taxing unit's share of the overall tax levy. If a taxing unit's share of property taxes equaled three percent of all property taxes collected in the county, the taxing unit would receive three percent of the COIT funds distributed under this formula. COIT revenue may be used to increase the Homestead Property Tax Credit (homeowners are granted property tax relief by an exemption of a portion of the assessed value of their home). COIT also may be used to fund the operation of a public transportation corporation, retire the debt from certain economic development bonds, and for any General Fund purpose.

CEDIT is imposed on income-earning residents of the adopting county and by individuals who work in the adopting county but reside in a county that has not elected to impose any form of local option income tax. CEDIT was created for use in counties with a capital improvement plan, a qualified economic development project, or hazardous waste cleanup. CEDIT rates are limited to the following: 0.1, 0.2, 0.3, 0.35, 0.4, 0.45, and 0.5 percent.

CEDIT revenue is distributed to cities, towns, and counties with a capital improvement plan; schools districts, townships and libraries receive no CEDIT revenue. The maximum combined COIT and CEDIT rate is limited to 1 percent; the maximum combined CAGIT and CEDIT rate is 1.25 percent. In 1996 (FY), 50 counties collected \$73,239,690 of CEDIT revenue.

The impact of annexation on the distribution of CAGIT, COIT, or CEDIT revenues (where they exist) is dictated by the relative change in property tax levies among taxing units. Both CAGIT and COIT distributions to all taxing units are affected in cases in which only the property tax levy of the annexing civil city or town is affected as well as in instances where annexation affects the levies of additional taxing units. The impact of annexation on the distribution of CEDIT revenue is dictated by the relative change in property tax levies among the county and civil city and town taxing units within the county that have adopted a capital improvement plan. Because CEDIT revenues are distributed solely to cities, towns, and counties (with capital improvement plans), revenue distribution to townships, libraries, and special taxing units is not affected. The impact of annexation is likely to be greater in instances in which the levies of both the annexing unit and other units are affected (that is, in counties that have adopted either CAGIT or COIT).

## Auto Rental Excise Taxes

The auto rental excise tax is imposed on the rental price of any vehicle (less than 11,000 pounds) rented for less than 30 days. This tax mainly is collected in Indiana's most urbanized counties where car rentals occur, particularly in those counties with passenger airports. The revenue is distributed semi-annually to all taxing districts within the county where the rental transaction occurred. In 1996, \$6,981,293 of auto rental excise tax was distributed to Indiana counties. Marion County received nearly 50 percent of all revenues.

Changes in distribution of auto rental excise taxes due to annexation occur only in counties where they are collected. In the counties where auto rentals occur, each taxing units' share of revenue would be affected in proportion to its adjusted share of the county's total property tax levy.

## Revenue Distributions Based on Population

Annexation usually results in an increase in the population of the municipality that is annexing additional territory. The increase in population affects state and local tax revenues that are distributed fully or partially based on population. In general, however, there is a lag effect from the time when the annexation occurs and the time when tax revenues change. Unless, a special census is undertaken, the population distribution formulas remain unchanged until the next decennial census. Because of this lag, in practice it is difficult to determine or separate out the amount of change due to annexation. Although the changes attributable to annexation are difficult to sort out, they nevertheless occur and can be important. In general, however, changes in tax revenues from these sources are not as important as changes in property taxes.

The principal local tax revenue affected by changes in population is the share of motor fuel taxes distributed to cities, towns, and counties. Other revenues affected by changes in population include: the cigarette and tobacco products tax; the alcoholic beverage taxes; and the county motor vehicle excise surtax and the county wheel tax. The motor vehicle excise tax is distributed on the basis of both population and property tax levy.

## Motor Fuel Taxes

Four different motor fuel taxes support three different highway and road-related funds. The method of distribution to local jurisdictions varies depending on the fund. The four motor fuel taxes are the Gasoline, Special Fuel, Motor Carrier Fuel Taxes, and the Motor Carrier Surcharge. The three funds are the Motor Vehicle Highway Fund, the Highway, Road, and Street Fund, and the Special Distribution Account. Motor fuel taxes in the Motor Vehicle Highway Fund are distributed to cities and towns based on population and on road mileage and vehicle registrations. Motor fuel taxes in the Highway, Road, and Street Fund are distributed based on the basis of population and the ratio of total municipal street or road mileage to county road mileage. Funds from the Special Distribution account are distributed equally according to the formulae in the other two funds.

Local distributions of motor fuel taxes are limited to counties, cities, and towns. All local revenues from these sources must be used for road and street maintenance or construction as well as other transportation services such as curbs, alleys, traffic signs, and snow removal. As noted previously, changes in revenues from these sources may not occur until after a decennial census. As will be seen in the following section, some municipalities attempt to account for these funds in their fiscal plans while others do not.

## Cigarette and Tobacco Products Taxes

The Cigarette and Tobacco Products Tax collects 15.5 cents per pack of 20 cigarettes and 19.5 cents per pack of 25 cigarettes sold in Indiana. Cigars, chewing tobacco, and other tobacco products are taxed at 15 percent of wholesale cost. Between four and five cents per package<sup>5</sup> of the Cigarette Tobacco Products Tax revenue are distributed to cities and towns based on population. The revenues from these taxes must be placed in the Cumulative Capital Improvement Fund (although, by ordinance, they can be transferred to the General Fund). Other recipients of this tax revenue include: Mental Health Centers Fund (1/31), the state General Fund (14/31), and the Department of Natural Resources. The tax was last increased by five cents in 1987. In 1996 (FY), over \$123.7 million in Cigarette and Tobacco Products Tax was collected by the state, and approximately \$18.7 million was distributed to cities and towns. Although annexation contributes to changes in local revenues from these taxes, the changes are not large relative to changes in property and income taxes and are difficult to account for because they typically are recalculated only after decennial censuses.

## Alcoholic Beverage Taxes

Alcoholic Beverage Taxes are calculated based on gallons of beer, wine, and liquor sold by wholesalers throughout the state. The state's General Fund receives four cents per gallon of beer, \$1 per gallon of liquor, 20 cents per gallon of wine, and .05 cents per gallon of malt. Fifty percent of the portion of the Alcoholic Beverage Taxes dedicated to the state's General Fund is distributed to civil city and town taxing units based on their share of the population of all cities and towns in the state. In 1995, \$12,460,146 was shared (50 percent each) between the state's General Fund and city and town taxing units. Other funds receiving revenue include: the Post War Construction Fund (\$14,106,027), Enforcement and Administration Fund (\$1,864,909), Pension Relief Fund (\$2,184,972), Addiction Services Fund (\$2,851,108), and the Wine Grape Market Development Fund (\$380,617). Total tax revenue in 1996 (FY) was \$33,847,779. The last tax increase occurred in 1981. As in the case of cigarette and tobacco products taxes, the changes in local revenues from this source are not large relative to changes in property and income taxes and are difficult to account for because they typically are recalculated only after decennial censuses.

## County Motor Vehicle Excise Surtax and the County Wheel Tax

Indiana counties may choose to impose the County Motor Vehicle Excise Surtax and the County Wheel Tax. The County Motor Vehicle Excise Surtax is imposed on vehicles that are eligible for Motor Vehicle Excise Tax and whose owner resides within the county enacting the tax. The County Wheel Tax must be adopted in conjunction with the County Motor Vehicle Excise Surtax and is imposed on other motor vehicles (over 11,000 pounds) whose owners reside in the enacting county. A county may choose to impose a County Motor Vehicle Excise Surtax rate of between two and ten percent of the County Motor Vehicle Excise Tax. The Wheel Tax rate must be between \$5 and \$40. In 1995 (CY), a total of \$24,985,408 was collected in 18 counties. The revenue is distributed to cities, towns, and counties based on the residence of the vehicle owner and ratio of city or town street mileage to total county road mileage. All revenue must be dedicated to road-related uses. When property is annexed, the proportion of total population in the remainder of the county changes. Although these changes occur in only 18 counties and are not large relative to changes in other taxes, they result in losses of revenues to counties and increases in revenues to municipalities.

---

<sup>5</sup> 7/31 of the Cigarette and Tobacco Products Tax is placed in the Cigarette Tax Fund; 2/3 of the revenue goes to cities and towns; the other 1/3 is distributed to the Department of Natural Resources.



## Motor Vehicle Excise Tax

The Motor Vehicle Excise Tax is paid by the owners of cars, motorcycles, and small trucks. The rate schedule is based on the factory price and model year. Revenues are distributed to the taxing unit in which the vehicle owner resides. Revenue is distributed to the taxing units based on their share of the total tax levy within the district. In 1995 (CY), \$550,132,0614 million in Motor Vehicle Excise Tax was collected. Beginning in 1996, excise tax rates were reduced, and revenues from the state lottery surplus and General Fund are being transferred to the Motor Vehicle Excise Tax fund for distribution to taxing units.

Annexation affects Motor Vehicle Excise Tax revenue distributions in two ways. First, annexation likely will result in a changed tax district of residence for some vehicle owners. This changes the destination of that taxpayer(s) revenues and affects revenue distribution among the county's tax districts. Additionally, annexation likely changes the tax levy of the taxing units within individual tax districts (especially the civil city or town unit's levy). The annexation-related change in taxing unit levies affects the distribution of Motor Vehicle Excise revenues.

# 6.0 Requirements and Roles for Fiscal Analyses

As noted in Section 5, annexation affects local revenues from 13 different sources, and economic and financial issues loom large in the debate over annexation. The economic and financial issues raised by annexation are quite complex. Indiana annexation law requires municipalities to prepare fiscal analyses prior to annexation. The purpose of a fiscal plan is to document municipality's capacity to deliver all services within the time frame specified by statute (capital services within three years and non-capital services within one year). The annexation statute does not provide detailed criteria for the contents or analyses in a fiscal plan, and the fiscal plans prepared by municipalities to meet the requirements of the law vary considerably. This section reviews the requirements for fiscal analyses and examines several fiscal plans that municipalities have prepared.

## Requirements for Fiscal Plans

Indiana code (IC 36-4-3-13) requires courts to order proposed annexations if, among other items, the municipality has written and adopted a fiscal plan by resolution as of the date of passage of the annexation ordinance. The resolution must show:

1. Cost estimates of planned services,
2. Method or methods of financing the services,
3. Plan to organize and extend the services;
4. That non-capital services including (but not limited to) police and fire protection and street and road maintenance will be provided within one year in a manner equivalent in standard and scope to services provided elsewhere,
5. That capital services, including (but not limited to) street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided within three years in a manner equivalent in standard and scope to services provided elsewhere, and

6. Plan for hiring employees of other governmental entities whose jobs will be eliminated by the proposed annexation, although the municipality is not required to hire any employees.

The fiscal plan requirement is included in the section of the code that concerns criteria judges are to use to decide contested cases. Because of this placement, it is unclear whether the requirements for fiscal plans apply when property owners initiate annexation.

The law provides no specific guidance for the preparation of fiscal plans; nor does it set criteria that judges or others can use to evaluate the quality of analyses or whether a minimum standard has been met. It is clear from the language of the statute that the primary rationale for the fiscal plan requirement is to ensure that the municipality actually can pay for and provide the services to property owners in the territory to be annexed. Another purpose of the statute is to ensure that the property owners will be treated fairly relative to current municipal residents and receive the same services.

The purpose of the requirements for fiscal plans is *not* to make sure that all economic factors are taken into account. For example, plans do not attempt to measure the economic value of improvements in public health that occur when municipal utilities are extended to reduce pollution from failing septic systems and to provide clean drinking water. From an economic perspective, therefore, the requirement for a fiscal plan is not the same as a requirement for a complete accounting or a benefit-cost analysis. Although nothing in the law prohibits a broader accounting, most fiscal plans do not attempt to catalog all economic effects of an annexation. As might be expected, the scope and quality of fiscal plans that have been prepared varies tremendously. A review of some examples of fiscal plans illustrates the complexity of analyzing the financial impacts of annexation.

## Examples of Fiscal Plans

In reviewing the files at the State Board of Tax Commissioners and in consulting with local officials, several copies of fiscal plans were obtained. Three plans are reviewed here, including plans prepared by Columbia City, Fort Wayne, and Lafayette. These plans were selected because they were convenient and illustrative, not because they necessarily are representative of the population of plans that have been prepared to meet the requirements of the law. The purpose of describing them is to illustrate the variation in scope and approach among plans prepared as part of different annexations. An understanding of the strengths and weaknesses of different fiscal plans will provide insight into the set of financial and economic issues relevant to annexation.

### Columbia City: Armstrong Annexation, 1994

In 1994, Columbia City was considering annexation of five different parcels, including an area called Armstrong, and prepared an annexation plan to help guide its decisions. The plan included separate sections with information needed to inform decision makers about annexing each parcel. For each area, the plan included a base map, a map of proposed utilities, a description of the parcel, general information, zoning, options for meeting the two types of annexation requirements, anticipated revenues, anticipated costs, and two pages of spreadsheet output that show how revenue and cost calculations were made.

The Armstrong area was northwest of Columbia City, occupied about 341 acres, included five dwelling units and five persons, had an assessed value of \$83,330, was not subdivided, was zoned agriculture, and did not meet requirements for density or contiguity. The plan noted that unless other annexations preceded it, the annexation would not qualify under either of the two options allowed by law, mainly because it failed to meet contiguity requirements.

**Table 8: Estimated Revenues and Costs for the Armstrong Annexation**

<b>Anticipated Revenues</b>	
Property Tax	\$2,408
ABC Gallonage Tax	\$29
Motor Vehicle Highway Account	\$2,671
Local Road and Street Account	\$457
Cigarette Tax: General Fund	\$18
Cigarette Tax: Capital Improvement Fund	\$63
<b>Total Civil City Revenue</b>	<b>\$5,645</b>
Water Service (dependent on development)	\$572
Sewer Service (dependent on development)	\$1,212
<b>Total Utility Revenue</b>	<b>\$1,783</b>
<b>Anticipated Costs</b>	
<b>Noncapital Services</b>	
Police Protection	\$1,532
Fire Protection	\$624
Emergency Medical Services	\$0
Garbage Collection	\$0
Street and Road Maintenance	\$5,863
<b>Total Civil City Costs</b>	<b>\$8,019</b>
<b>Capital Improvements</b>	
Water Facilities	\$400,000
Sewer Facilities: Phase I	\$123,000
Sewer Facilities: Phase II	\$512,000
<b>Total Capital Costs: Phase I</b>	<b>\$523,000</b>
<b>Total Capital Costs: Phase II</b>	<b>\$512,000</b>

Even though annexation was not feasible at the time, the plan estimated potential increased revenues from property taxes, ABC gallonage tax, the Motor Vehicle Highway Account, Local Road and Street Account, Cigarette Tax, and the Cumulative Capital Improvement Fund (Table 8). Estimates of increases for taxes other than the property tax were based on population estimates or other unit measures such as miles or dwelling units. The plan noted that increases in revenues for water and sewer service were dependent on development. Analysts concluded that property taxes would account for only about 43 percent of new revenues, and that new revenues in the Motor Vehicle Highway Account would be greater.

The plan estimated costs for five noncapital services and two capital services (Table 8). Costs for noncapital services were estimated by extrapolating existing per capita or other costs. Costs for the water and sewer extension were estimated for phases of development. The analyses showed that noncapital costs alone would exceed anticipated revenues, and it is evident from the magnitude of the capital costs that any debt service would dwarf anticipated revenues. As noted, the plan concluded that annexation was infeasible.

### Fort Wayne: Northeast Annexation, 1989

As noted in Section 4, Fort Wayne annexed property in the 1980s and early 1990s more aggressively than any other city in Indiana. In February 1989, Fort Wayne completed a fiscal plan for the northeast annexation. This plan included basic information about the area to be annexed, the relation between the northeast annexation and the city's comprehensive annexation program, statutory requirements for annexation, municipal services, and financial summaries and recommendations. Among other items, the city's discussion of the rationale for annexation included documentation of different ways in which city

residents subsidized residents of suburban county areas. Examples included the number of responses to calls for police by non-city residents (171 of 311, or 55 percent, for the ten-day period August 19-28, 1988) and use of parks. The plan outlined how annexations would be phased in, how tax abatements would be utilized, and how services would be delivered. Details about the characteristics of the northeastern annexation are presented in Table 4 and the accompanying text in Section 4 of this report.

The plan included estimates of revenues and of the capital and operating costs for different services for each of the four phases of the annexation. The estimated revenues and costs are presented in Tables 9 and 10. For the ten years, 1990–2000, annual new revenues were projected to increase from \$2,841 to \$6,390,567. New revenues from property taxes accounted for most of the increased revenues. Estimates of property tax revenues took into account the home mortgage exemption and the proposed tax abatements and they were assumed to inflate at a rate of five percent per year. Motor vehicle and local road and street revenues also were estimated, as were miscellaneous other revenues.

Capital and operating costs were estimated for police, fire, streets, traffic engineering, solid waste, hydrants, and animal control (Table 10). Costs for other services such as emergency medical service, parks, water, sanitary sewers, storm sewers, and administrative services also were considered but determined to be zero because these services were in place or because the cost of service could not be isolated. Although projected expenditures exceeded projected revenues for 1990 and 1991, revenues were projected to exceed expenditures for all other years.

The Fort Wayne plan accounted for revenues for taxes other than the property tax, but not all taxes affected by annexation (unless the miscellaneous category also includes county option income taxes). Property taxes clearly were projected to be the largest source of new revenues. The plan accounted for changes in revenues and expenditures over time, and apparently factored in inflation into estimates of revenues and costs. Assumptions for making annualizing capital costs are reported. The plan, for example, assumed that fire and other vehicles would be obtained through lease-purchase agreements and spread costs over time accordingly. The capital costs were escalated as additional phases were scheduled to be annexed.

### Lafayette: SIA Annexation, 1998

In 1998, Lafayette prepared a fiscal plan in support of its efforts to annex what is called the SIA (i.e., the Subaru-Isuzu Automotive) Annexation Area. The SIA Area, located to the southeast of the city, was “dominated by large tract industrial uses, including Subaru-Isuzu Automotive, Inc.” (Wabash Scientific, Inc. 1998). The primary purpose of the annexation was to expand the industrial base of the city.

The SIA fiscal plan explains the goals of Lafayette’s annexation policy, addresses a number of statutory considerations, forecasts revenues, identifies non-capital and capital municipal services, discusses service to comparable areas, and describes the plan for extending and financing municipal services. The goals of Lafayette’s annexation policy are explicit (Wabash Scientific, Inc. 1998):

- (1) That all residences and businesses which currently are served by city water and sewers will eventually become a part of the incorporated city;*
- (2) That annexation actions should not result in a general property tax increase within the currently incorporated community;*
- (3) That the city should continue to require the execution of “waivers of remonstrance” for all development which is within the service area of water and sewer utilities;*

Table 9: Revenue Estimates for Northeast Annexation

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Phase I</b>											
Taxes		\$353,702	\$731,851	\$1,146,931	\$1,204,278	\$1,264,491	\$1,327,716	\$1,394,102	\$1,463,807	\$1,536,997	\$1,613,847
MVH & LRS		\$160,078	\$160,078	\$160,078	\$160,078	\$160,078	\$160,078	\$160,078	\$160,078	\$160,078	\$160,078
Misc. Revenue	\$2,841	\$2,983	\$3,132	\$3,289	\$3,453	\$3,626	\$3,807	\$3,998	\$4,197	\$4,407	\$4,628
<b>Phase II</b>											
Taxes				\$294,373	\$618,182	\$649,091	\$681,546	\$715,623	\$751,404	\$788,974	\$828,423
MVH & LRS				\$106,518	\$106,518	\$106,518	\$106,518	\$106,518	\$106,518	\$106,518	\$106,518
Misc. Revenue			\$2,202	\$2,312	\$2,428	\$2,549	\$2,677	\$2,810	\$2,951	\$3,098	\$3,253
<b>Phase III</b>											
Taxes							\$935,458	\$982,230	\$1,031,342	\$1,082,909	\$1,137,054
MVH & LRS							\$189,942	\$189,942	\$189,942	\$189,942	\$189,942
Misc. Revenue						\$5,186,	\$5,445	\$5,718	\$6,003	\$6,304	\$6,619
<b>Phase IV</b>											
Taxes										\$1,996,239	\$2,096,051
MVH & LRS										\$238,011	\$238,011
Misc. Revenue									\$5,572	\$5,851	\$6,143
Total	\$2,841	\$516,763	\$897,263	\$1,713,501	\$2,094,937	\$2,191,540	\$3,413,187	\$3,561,018	\$3,721,815	\$6,119,328	\$6,390,567
Taxes		\$353,702	\$731,851	\$1,441,304	\$1,822,460	\$1,913,583	\$2,944,770	\$3,091,955	\$3,246,553	\$5,405,120	\$5,675,375
MVH & LRS		\$160,078	\$160,078	\$266,596	\$266,596	\$266,596	\$456,538	\$456,538	\$456,538	\$694,549	\$694,549
Misc. Revenue	\$2,841	\$2,983	\$5,334	\$5,601	\$5,881	\$11,361	\$11,929	\$12,526	\$18,724	\$19,660	\$20,643

and

Table 10: Expenditure Estimates for Northeast Annexation

	Phase I			Phase II			Phase III			Phase IV		
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	
Police	\$39,965	\$41,963	\$96,234	\$101,046	\$106,098	\$163,011	\$171,162	\$179,720	\$269,180	\$282,639	\$296,771	
Fire	\$56,117	\$58,923	\$104,442	\$211,767	\$159,676	\$649,884	\$678,653	\$708,859	\$738,590	\$771,893	\$806,861	
Streets	\$70,788	\$73,691	\$154,784	\$161,185	\$167,907	\$242,716	\$253,832	\$251,476	\$439,899	\$459,542	\$473,798	
Traffic Eng.	\$78,803	\$31,374	\$51,466	\$52,359	\$54,977	\$259,642	\$100,279	\$105,293	\$212,423	\$117,564	\$123,442	
Street Light	\$35,466	\$9,109	\$355,079	\$29,385	\$283,283	\$115,137	\$64,160	\$423,731	\$151,253	\$107,505	\$594,827	
Solid Waste	\$100,819	\$105,860	\$189,118	\$198,574	\$208,503	\$402,545	\$422,672	\$443,806	\$662,639	\$695,771	\$730,560	
Hydrants	\$34,454	\$36,177	\$57,873	\$60,766	\$63,805	\$113,297	\$118,962	\$124,910	\$188,349	\$197,767	\$207,655	
Animal Control	\$208	\$218	\$50,792	\$27,490	\$28,864	\$31,055	\$32,608	\$34,239	\$37,229	\$39,090	\$41,045	
Totals	\$416,620	\$357,315	\$1,059,788	\$842,572	\$1,073,113	\$1,977,287	\$1,842,328	\$2,272,034	\$2,699,562	\$2,671,771	\$3,274,959	

- (4) *That all of the long-range planning for the city of Lafayette projects that the business center of the metropolitan area will become the I-65 corridor, with SR26 serving as the commercial center and SR38 serving as the industrial center of new growth.*

The plan noted that Subaru-Isuzu Automotive, Inc., accounted for most of the assessed value in the annexation area and that much of the assessed value was personal property, or inventory, that is mobile. The plan therefore cautioned that “it is important to carefully consider viable means of reducing property tax impact, such as delaying the effective date of annexation” (Wabash Scientific, Inc. 1998). Incremental changes in revenues from property taxes were estimated assuming tax abatements.

The plan includes estimates of 11 different non-capital and 8 different capital costs and limits estimates of revenues to revenues from property taxes (Table 11). The projected increase in the annual cost of non-capital fire services (\$450,000) is nearly 13 times the projected increase in all other non-capital services. Costs for fire services were high because the local administrators estimated 10 to 12 new firefighters would be required to staff the facilities constructed to serve the SIA annexation area. The costs of capital improvements needed to serve the area were estimated and annualized, and only the proportion of capacity needed to serve the area were attributed to the project. For some services such as sewers, for example, it was assumed that development in the SIA Annexation Area would use 75 percent of total capacity, and only 75 percent of the total estimated costs were included in the cost projections. The main capital costs were for sewers and a new fire station.

Although the plan acknowledges that annexation changes municipal revenues from a number of sources, only revenues from property taxes were included in the cost-revenue analysis because (Wabash Scientific, Inc. 1998):

*only property tax revenues are under the direct control of the city. These secondary revenue sources often depend upon the decisions of other governmental bodies and/or the actions of the State with regard to the amount and timing of revenue distributions. These variables can be difficult for a City to control or accommodate.*

The plan continues:

*The purpose of a Fiscal Plan is to provide reasonable assurance that the municipality has the financial capacity to provide the promised services. Therefore, this fiscal plan is prepared under the premise that the ideal fiscal scenario would be to be able to cover the entire cost of annexation (services) solely with projected property tax revenues.*

In the cost-revenue analysis, the analysts used a “straight line” projection in which only existing development was considered (that is, no new growth in the vacant land was assumed), no re-assessment was assumed, and the cost and revenue impacts of inflation were assumed to be neutral. Although the plan discussed utility revenue bonds, revolving loan funds, and other sources of revenues in addition to property taxes, the quantitative analyses were limited to consideration of property taxes. The analysis showed that revenues would exceed costs over the period of analysis.

Table 11: SIA Annexation Area: Cost/Revenue Analysis for Municipal Services

Services/Year	1	2	3	4	5	6	7	8	9	10	11	12
	<b>*Non Capital Services</b>											
Snow Removal	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
Leaf Removal	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Street Repairs	\$1,000	\$1,000	\$2,000	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000	\$9,000	\$10,000	\$10,000
Trash Collection	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Animal Control	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Police	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Fire	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000
Emergency Medicine	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Parks Department	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Administration	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Ditch Maintenance	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
	<b>**Capital Services</b>											
Fire Station	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500	\$127,500
Street Lights	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800
Road Recons.	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Traffic Lights	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Water	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sewer	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500	\$862,500
Fire Hydrants	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Drain Improvements	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Total Cost	\$1,490,800	\$1,490,800	\$1,491,800	\$1,492,800	\$1,493,800	\$1,494,800	\$1,495,800	\$1,496,800	\$1,497,800	\$1,498,800	\$1,499,800	\$1,583,800
	<b>Projected Property Tax Revenues</b>											
Inventory	\$0	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421	\$1,284,421
Bldgs, Land & Eq.	\$0	\$2,095,615	\$2,363,196	\$2,260,353	\$2,215,934	\$2,288,366	\$2,589,828	\$2,599,166	\$2,608,504	\$2,617,841	\$2,622,510	\$2,627,179
Surplus (deficit) Inven	\$1,490,800	\$604,815	\$871,396	\$767,553	\$722,134	\$793,566	\$1,094,028	\$1,102,366	\$1,110,704	\$1,119,041	\$1,122,710	\$1,043,379
Surplus (deficit)	\$1,490,800	\$1,889,236	\$2,155,817	\$2,051,974	\$2,006,555	\$2,077,987	\$2,378,449	\$2,386,787	\$2,395,125	\$2,403,462	\$2,407,131	\$2,327,800

Footnotes:

- \* Non capital services must be provided within one year of annexation
- \*\* Capital services must be provided within three years of annexation
- 1 "Year" denotes number of years after effective date of annexation.
- 2 Leaf Removal to be provided only on nominal single family residential development in area.
- 3 Non-capital fire service is estimated at 75% of total service to be provided from the new fire station (75% of 12 firefighters @ \$50,000 each).
- 4 Ditch maintenance does not include capital drainage improvement expenses.
- 5 Costs of "Fire Station" are budgeted by the city as being capital in nature (also apportioned at 75% of total) but fire services are determined by statute to be non-capital, and must be provided within one year.
- 6 Property Tax Projections based on "straight line" method using current NAV.



## Comparison and Observations

These three plans illustrate a number of issues relative to the requirement for fiscal analyses prior to annexation. The three plans were for different types of areas (largely vacant, mostly residential, and mostly industrial). Each plan addressed the basic requirements of the statute: costs of services, methods of financing, plan to extend services, provision of capital and non-capital services, and hiring of displaced employees. Although each plan fulfilled the requirements of the law, the plans differed considerably in treatment of certain issues.

The plan for Columbia City, for example, estimated potential revenues from five sources, while the plan for Fort Wayne estimated three, and the plan for Lafayette considered only property taxes, although the analysts explicitly noted that revenues from other sources would be realized. Analysts in Fort Wayne and Lafayette demonstrated that property taxes were the most important potential revenue source, while analysts in Columbia City projected that increases in revenues from the Motor Vehicle Highway Account would be greater than the revenues from property taxes. None of the analyses accounted for potential changes in any of the county option income tax. The point here is not that one analysis was right and another was wrong; rather that the analyses are completed differently and use different sets of assumptions.

A second observation is that each of the plans used different approaches to project the costs and revenues over time. The analysis for Columbia City generally ignored time. Although phases for extension of water and sewer are noted, no consideration was given to the time when expenditures will begin or to changes in the value of money over time. In addition, the plan did not acknowledge that some of the changes in revenues might not occur until after a decennial census. The problem of inflation (which was ignored in the Columbia City analysis) was treated differently in the Fort Wayne and Lafayette analyses. Although costs and revenues were adjusted for inflation in the Fort Wayne analysis, it was assumed in the Lafayette plan that inflation would affect revenues and costs equally and therefore factored out of the analysis.

Third, the analyses differed over assumptions of rates of development in the areas to be annexed. In the analysis for Columbia City, the analysts appear to have based all revenues and non-capital costs on existing levels of development and zoning while estimating capital costs for services required to serve new development. Incremental development was specifically excluded in the case of the Lafayette fiscal plan, and apparently not included in the Fort Wayne plan.

A fourth issue concerns how to estimate the “fair share” of costs to be paid by the area to be annexed. In some analyses, revenues and costs were estimated to be proportional to existing costs. This approach, while straightforward and flexible, ignores the existence of economies of scale, the fact that some costs are “lumpy” and cannot be separated<sup>6</sup>, and the fact that, because revenues are based on proportionate share, use of current per unit estimates will yield inaccurate results. In the SIA annexation in Lafayette, for example, 75 percent, not 100 percent, of capital costs were allocated to the annexation because the remainder of the capacity was not for the area. In Ft. Wayne, some costs were assumed to be zero when in reality small marginal costs actually may have been incurred.

In sum, analyzing the fiscal impacts of annexation is a complex activity. Each of the plans reviewed here has strengths and weaknesses. Each plan showed that municipalities would be able to finance the promised services. None of the plans was a complete accounting of all fiscal effects and none mentioned broader economic effects. The Lafayette plan was purposefully conservative. Because each annexation is unique, there is no reason to think that all analyses should be uniform. The services provided by municipalities, for example, will depend on those required by the area, and not all areas will be the same. But greater uniformity in analyses perhaps could help to reduce questions that are asked when annexations are

---

6 Capital public goods, like schools and water or wastewater treatment facilities, are built with excess capacity.

proposed. The absence of criteria and general guidelines for preparation of fiscal plans is one factor that may contribute to differences in content and controversies over annexations.

## 7.0 Hoosier Perspectives on Annexation

As noted in the Introduction and in Section 2, Hoosiers have debated the merits of the existing annexation for at least the past two decades. Previous legislative study committees have found that municipal officials support the existing process but that many Hoosiers who have been involved in annexation proceedings believe that property owners and residents who face a prospective annexation should have more opportunities for participation in the process and a greater say in the outcome. To ensure that the opinions of Hoosiers were considered and reflected in this assessment of options, the IACIR held five forums on annexation across the state, including locations considered strongly activist on issues of annexation (Table 12). Not including IACIR members and staff, total attendance at the forums was approximately 226 individuals. A number of dedicated individuals from Porter County attended each hearing; the total number of different people attended the hearings was approximately 212.

**Table 12: Dates and Attendance of Public Forums on Annexation**

Date	City	Attendance
July 29	New Albany	19
August 12	Terre Haute	15
August 13	Noblesville	59
August 18	Fort Wayne	60
August 27	Lafayette	73
		<b>Total = 226</b>

The forums were organized differently than traditional public hearings and involved roundtable discussions rather than a series of individual, timed public statements. The format of each forum was similar:

- Welcome and Call to Order
- Explanation of Discussion Format
- Presentation of Annexation Research Results
- Public Discussion Period
- Conclusions and Next Meeting

The presentation of the research results included information about issues in annexation. People attending each forum also were given an issue guide that included a synopsis of material included in this report. The presentation and issue guide included summaries of information about the annexation process (Section 3 of this report), annexation in Indiana (Section 4), taxes affected by annexation (Section 5), approaches to annexation used in other states (Section 8), and issues in annexation (Section 9).

The heart of the forums was the public discussion period. People attending the meetings broke into groups of six to eight individuals, including, whenever possible, at least one member of the IACIR. Participants in each group then discussed three issues: the reasons for annexation, ways the annexation process can be improved, and how the concerns of property owners and remonstrators can be addressed. One member of each group then summarized the group's discussion for the entire forum. Staff recorded a master list of all the issues and concerns that were raised. Minutes from each forum, including table-by-

table summaries of the participant's comments, were distributed to IACIR members in October 1998. The remainder of this section synthesizes the comments from the five forums.

No formal tabulations of people's positions on issues related to annexation were taken at the forums because the purpose of the forums was to air issues, not tally up whether opponents or proponents of annexation were more successful in organizing participation. The majority of people who attended, however, were opposed or concerned about particular annexations. A number of municipal officials who discussed the importance of annexation to the health of their communities also participated. In general, critics of current annexation voiced strong support for procedural reform, including proposals to let people who reside or own property in areas to be annexed vote on the proposed annexation. Municipal officials also endorsed procedural reform such as improved public notice and longer periods for remonstrance, but stopped short of support for referenda. Although comments along these lines clearly were the most common and dominated the discussions, many other important issues were raised.

Tables 13 through 17 summarize the issues raised by Hoosiers who participated in the forums. These have been organized into five categories, although the categories clearly overlap:

- Table 13 Political Issues
- Table 14 Economic and Fiscal Issues
- Table 15 Administrative Issues
- Table 16 Public Health, Environmental, and Quality of Life Issues
- Table 17 Miscellaneous Annexation Issues.

## Political Issues

Political concerns dominated the discussions at the forums. People discussed the desirability of referenda and giving people the right to self-determination in annexation cases, the fairness of the process, issues related to communication and notice, delivery of services, and other issues. Critics of annexation likened their situation to that of colonial residents in the 1700s and argued that annexation in Indiana represents "taxation without representation." Most but not all critics of annexation argued that residents or property owners of areas to be annexed should be allowed to vote on annexation, while municipal officials expressed concern that referenda requirements would effectively stop annexation in the state. Some municipal officials noted that elections have poor turn-outs and concluded that referenda would be poor ways to determine the merits of cases. Others indicated they might support referenda if the population allowed to vote included municipal residents as well as residents of the territory to be annexed.

People noted the presumption in favor of municipal governments—their ability to annex virtually unilaterally—and questioned the fairness of the procedure. They noted, for example, that municipalities have access to legal resources while property owners do not, that individual notice of property owners is not required, that municipalities can control schedules for annexation, and that time periods for remonstrance (60 days) are too short. They also noted that opponents often do not remonstrate (except in St. Joseph County), because the primary grounds for remonstrance under the existing statute are procedural. Some participants reported they believed that municipal officials in some instances have used unfair practices to coerce people to waive or not use their rights to remonstrate.

Conversely, some municipal officials reported that they routinely do more than required under the present statute to ensure that the process is fair and that the concerns of property owners are addressed. Examples of efforts to address the concerns of property owners included decisions to notify all property owners by mail, negotiations over levels of services, tax abatements, and open public hearings.

Many detailed comments were made about specific issues. People recommended independent reviews of fiscal plans and new requirements for environmental impact statements. They noted that developers often sign waivers of rights to remonstrate as part of agreements for extension of services and that these waivers

then are passed along as covenants on property. As a result, new property owners find themselves unable to remonstrate. It was suggested that the moratorium on the period for municipalities to try to annex property after a failed attempt at annexation be increased to more than two years. Participants also expressed concern that despite statutory requirements, municipalities do not deliver services in the time periods required by statute and that the burden of proof is on residents to prove they are not receiving services.

**Table 13: Political Issues**

<b>Fairness of Process</b>
<ul style="list-style-type: none"> <li>▪ Municipalities often have regular access to legal assistance that is paid for by the taxpayers. Remonstrators cannot match municipal resources to wage effective remonstrance efforts.</li> <li>▪ Current system is taxation without representation.</li> <li>▪ There are few remonstrances because it is so difficult to win.</li> <li>▪ There is a presumption in favor of municipalities.</li> <li>▪ Some disagree with allowing more public comment. It is not an effective way to get people out because people do not participate in the affairs of government generally.</li> <li>▪ No checks and balances; municipalities do not have any impetus to do a “good” thing.</li> <li>▪ Burden of persuasion is on opponents. Put the burden on the municipality.</li> <li>▪ Some communities use intimidation and coercion to squelch remonstrance efforts;</li> <li>▪ there have been threats of counter-suits. Some folks are afraid to oppose annexation for fear of losing business.</li> <li>▪ Cities don’t provide a “public” meeting.</li> <li>▪ Property owners should initiate annexation.</li> <li>▪ Owners adjacent to the annexed property are affected.</li> <li>▪ Annexation benefits existing residents over older residents.</li> <li>▪ Municipalities are allowed to make decisions for residents that are not represented.</li> <li>▪ Homeowners often are unknowledgeable about what to do to oppose annexation.</li> <li>▪ Unincorporated areas can incorporate</li> <li>▪ Statistics do not reflect what’s happening.</li> <li>▪ There are important differences between voluntary and municipal annexation.</li> <li>▪ Avoid one-size-fits-all solutions.</li> <li>▪ Courts have supported municipalities.</li> <li>▪ There is a distrust of city officials among people being annexed.</li> <li>▪ If an annexation is defeated or denied by a court, there is only a two-year moratorium on initiating further actions.</li> <li>▪ There are different issues in different parts of the state.</li> <li>▪ There are inconsistencies in the law.</li> <li>▪ Fundamentally, this is a property rights issue.</li> <li>▪ No forced annexation.</li> <li>▪ Annexation is unconstitutional.</li> </ul>
<b>Procedural Issues — Communication and Notice</b>
<ul style="list-style-type: none"> <li>▪ Need adjustments in notice to the public and property owners.</li> <li>▪ There is not enough opportunity for real input.</li> <li>▪ Need better communication between owners and municipalities.</li> <li>▪ Need better and more timely notification.</li> <li>▪ Provide itemized agenda for public meetings.</li> <li>▪ Need for early notification of homeowners, township officials, and homeowners associations.</li> <li>▪ We need easier access to materials.</li> <li>▪ Establish a process for negotiation that brings all stakeholders to the table.</li> <li>▪ Provide direct notice as is done with zoning cases.</li> </ul>

Table 13: Political Issues (con't)

Procedural Issues (con't)
<ul style="list-style-type: none"> <li>▪ Give 30 days notice prior to hearing.</li> <li>▪ There is a need for more communication between cities and counties.</li> <li>▪ Process could be improved by providing notice by mail and two notices in the paper.</li> <li>▪ Communicate what citizens will get.</li> <li>▪ Impose fines and penalties for violating open door law.</li> </ul>
Procedural Issues — General
<ul style="list-style-type: none"> <li>▪ The current remonstrance period is too short; remonstrators must scramble to be able to file within 60 days.</li> <li>▪ There is no recourse short of legal action.</li> <li>▪ Need a better appeal process.</li> <li>▪ Perhaps we should have judicial determination in which a judge is allowed to rule on the justification rather than just technical issues.</li> <li>▪ What is the process for de-annexing?</li> <li>▪ There should be independent review of fiscal plans.</li> <li>▪ How do we treat a developer as a property owner? Homeowners should make decisions, not simply owners.</li> <li>▪ How do we treat owners of multiple lots in the same territory?</li> <li>▪ Current state review is not adequate.</li> <li>▪ One discussant suggested the following solution: The fiscal plan must be strengthened to where it is an accurate and comprehensive financial document rather than an engineering document. The fiscal plan must include: <ul style="list-style-type: none"> <li>~ A cap on property tax increase;</li> <li>~ A statement of budgets, and costs vs. revenue;</li> <li>~ A limit on excessive revenues to avoid the stepping stone strategy;</li> <li>~ A financial statement of the impact on township government;</li> <li>~ An environmental impact statement;</li> <li>~ A one-year delay between the presentation of the plan and the ordinance enactment; and</li> <li>~ A certification procedure at the level of the State Board of Auditors and Attorney General.</li> </ul> </li> <li>▪ We need more specific requirements for fiscal plan.</li> <li>▪ There should be a better definition of time frames.</li> <li>▪ Re-establish procedures for state notification, better record keeping.</li> <li>▪ State statute should establish more specific criteria for each type of annexation (voluntary and involuntary).</li> <li>▪ Indiana law discourages large annexations.</li> <li>▪ Need to clarify the statutes, making them more understandable.</li> <li>▪ Establish enhanced home rule: vote on a county-by-county basis how local government will be arranged, like in Lexington.</li> <li>▪ Current law has no teeth. There should be automatic fines or penalties.</li> <li>▪ The county commission should vote.</li> <li>▪ We should require a three-tier majority.</li> <li>▪ Return annexation law to the way it was prior to 1980, when the existing law was passed.</li> <li>▪ Split city and county government.</li> <li>▪ One vote per household.</li> <li>▪ One possible solution is immediate annexation upon development approval.</li> </ul>
Self-Determination
<ul style="list-style-type: none"> <li>▪ Fifty-one percent of property owners should have to consent to annexation</li> <li>▪ The current process is un-democratic; it lacks choice for property owners.</li> <li>▪ A referendum system is preferred; property should be allowed to vote. Participants like “popular determination.”</li> <li>▪ Poor general election turn out offers evidence about referenda as an effective tool for representation.</li> <li>▪ All annexations should be approved by a secret ballot.</li> <li>▪ South Bend law is a solution.</li> <li>▪ Developer Commitments.</li> <li>▪ Developers control the issues. They petition for annexation or agree not to remonstrate.</li> <li>▪ Who should be allowed to consent? Resident? Developer?</li> </ul>

Table 13: Political Issues (con't)

Provision of Services
<ul style="list-style-type: none"> <li>▪ Property owners should have more say in the beginning stages of the fiscal planning process.</li> <li>▪ Annexing municipalities must provide services. There is no current mechanism for enforcing promises.</li> <li>▪ Residents often do not get new services. In New Castle, a particular area has had city water/sewer for several years. They have been paying for a long time.</li> <li>▪ Municipalities should forego taxes until services are available.</li> </ul>
Place-Specific Comments
<ul style="list-style-type: none"> <li>▪ Fishers has policy that remonstrance stops the process.</li> <li>▪ Sometimes there is conflict between municipalities over unincorporated territory. Fishers and Noblesville have joinder agreements.</li> </ul>
Other
<ul style="list-style-type: none"> <li>▪ Extraterritorial planning and zoning power can extend with municipal boundaries.</li> <li>▪ Some municipalities annex for altered political control. Significant enough population gain can allow cities to change status from Class 3 to Class 2.</li> <li>▪ Some communities allow the creation of unincorporated donut holes to avoid stigma and ill feelings.</li> <li>▪ Differences in development regulations between incorporated and unincorporated.</li> <li>▪ Process can be improved by voting. Should consider multiple options.</li> <li>▪ How should we provide a vote? Petition? General election?</li> </ul>

## Economic and Fiscal Issues

After political issues, concerns about economic and fiscal issues dominated the forums (Table 14). People commented that the primary motivations for annexation are economic and financial, that annexation can result in significant property tax increases for property owners who are annexed, and that allocation of costs, revenues, and debt can result in tax inequities exist between municipal and county residents. Most participants acknowledged that municipalities annex to increase tax base, but people suggested that municipalities annex land selectively and avoid annexation of poor areas. Some critics of annexation alleged that municipalities need to annex because they are inefficient and have squandered resources.

Municipal officials countered that annexation is necessary for economic health and is necessary to avoid subsidizing county residents who routinely use municipal services such as parks but do not pay for them. Many critics of annexation argued that they did not want or need municipal services or that the services they would receive following annexation were overpriced. Municipal officials noted that people in municipalities pay for county services like the sheriff but never use them.

Table 14: Economic and Fiscal Issues

Motivations to Annex
<ul style="list-style-type: none"> <li>▪ Communities don't necessarily need to grow to prosper.</li> <li>▪ Cities and towns annex for financial reasons.</li> <li>▪ Some municipalities are annexing to increase population for the upcoming census.</li> <li>▪ The current property tax system prompts communities to annex.</li> <li>▪ Cities annex for additional assessed value.</li> <li>▪ Municipalities practice "cherry picking." Cities and towns choose the most desirable areas for annexation. They often skip poor areas.</li> <li>▪ Annexation is a tool advantageous to developers; cities and towns provide utilities that make the land more valuable.</li> <li>▪ Communities often annex territory that they don't necessarily want in order to later annex property that is further away.</li> <li>▪ Cities have overspent and need revenues.</li> <li>▪ Annexation dilutes the property tax burden.</li> <li>▪ Cities need to grow. Landlocked municipalities have difficulties providing services over time.</li> <li>▪ Small towns have limited funds to deal with issues.</li> </ul>

Table 14: Economic and Fiscal Issues (con't)

<b>Motivations to Annex (con't)</b>
<ul style="list-style-type: none"> <li>▪ If a city is in trouble, the suburbs provide a windfall.</li> <li>▪ Reasons for annexation: migration out of municipalities to suburbs.</li> <li>▪ Annexation is needed to allow redevelopment of inner cities.</li> <li>▪ Lessen the reliance on property taxes as revenue source for local government.</li> </ul>
<b>Adverse Impacts</b>
<ul style="list-style-type: none"> <li>▪ Abatements are not offered to lessen the blow of increased property taxes.</li> <li>▪ Annexation increases property taxes for newly annexed property owners.</li> <li>▪ Additional taxation comes without enough gain.</li> <li>▪ Annexation can have a devastating effect on retired rural residents on fixed incomes.</li> </ul>
<b>Allocation of Costs, Revenues, and Debt</b>
<ul style="list-style-type: none"> <li>▪ Annexation is used by cities and towns that want revenue but can't afford to provide services to the newly annexed area.</li> <li>▪ We have a complex system of layered government: often there are higher water and sewer rates outside municipalities.</li> <li>▪ There often are tax inequities between residents of a municipality and residents of the fringe; many citizens at the fringe benefit from city expenditures but pay no taxes.</li> <li>▪ Annexation has a significant impact on townships and counties that have invested in capital assets (fire equipment, etc.). These investments must be paid off. Annexation reduces available revenue to pay.</li> <li>▪ Local economic development happens mostly in cities and towns.</li> <li>▪ Commercial properties are more efficient for financial gain (they consume less services than residential properties).</li> <li>▪ Citizens spend money on services and capital and then municipalities want to annex. In one area citizens had developed their own wastewater treatment and had an adjoinder agreement to provide fire protection. City now wants to annex.</li> <li>▪ Put a cap on the increase in property taxes.</li> <li>▪ Cities/towns use utility revenues to offset other expenses.</li> <li>▪ Why should new residents want to pay previous debt?</li> <li>▪ Reduce county taxes for city taxpayers.</li> <li>▪ Municipalities need to give some credit for improvements previously made to properties. Property owners that installed a new well or septic system should not have to connect to municipal infrastructure if they do not need it.</li> <li>▪ Municipalities don't have to compete. Annexation allows them to perpetuate poor management.</li> </ul>

## Administrative Issues

Administrative issues overlap considerably with political issues, but can be distinguished partially by their emphasis on efficiency, rather than equity, of service delivery. Concerns were expressed that annexation could result in duplication of services, about the quality of plans for delivery of services, and about follow-through in delivery of services. Supporters of annexation noted that annexation can lower the costs of services in outlying areas, capture economies of scale and eliminate costly duplication of services, and facilitate better planning and regional development.

Table 15: Administrative Issues

<ul style="list-style-type: none"> <li>▪ Annexation creates duplicative services.</li> <li>▪ Some cities are inefficient; property owners should not have to subsidize poorly managed government.</li> <li>▪ Cities have responsibility to provide services within newly annexed areas.</li> <li>▪ Often there is not a good reason for annexation or plan for providing services.</li> <li>▪ It should be ok to annex properties that already receive city services.</li> <li>▪ The delivery of infrastructure and consistency of services are a concern.</li> <li>▪ Regular boundaries make service provision more efficient.</li> <li>▪ There are unannexed pockets of land that are difficult to serve.</li> <li>▪ Annexation can provide efficiencies in service delivery.</li> </ul>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table 15: Administrative Issues (con't)

- 
- More joint services and shared planning.
  - Municipal fire service is more expensive and less responsive.
  - Diminished township fire departments have fewer resources.
  - Need to function as a region. Not to do so spells doom. Think regionally.
  - Combine services for more efficiency.
  - Bigger is not always better.
- 

## Public Health, Environmental, and Quality of Life Issues

Although annexation sometimes occurs to solve public health and environmental problems like failing septic systems and inadequate drinking water supplies, concerns about these problems clearly were less important to participants than political and economic issues. Many participants agreed that in cases where municipal services like sewer and water were required to serve particular populations, annexation is appropriate. Some participants believed, however, that if these are the only services provided, they can be paid for through user charges and there is no need to annex. People noted that annexation leads to more dense development, changes rural character, and leads to sprawl, loss of farmland, and destruction of wildlife habitat. Other participants noted that the annexation statute requires that land to be annexed be urban in character and that contiguous areas often already are densely developed.

## Miscellaneous Annexation Issues

Many of the concerns expressed at the meetings addressed issues much broader than annexation. People questioned, for example, growth for growth's sake, who should pay for new schools, and a perceived lack of communication among local units of government. A participant noted that Indianapolis cannot annex and is successful and concluded that annexation is not essential for prosperity. Others concluded that growth in outlying areas contributes to the decline of inner cities and that annexation can help municipalities strengthen inner cores. Municipal officials suggested that the legislature respects home rule and gives deference to the judgement of local officials.

Table 16: Public Health, Environmental, and Quality of Life Issues

- 
- There was consensus that there are environmental problems that require services. Once services are supplied then municipalities should annex.
  - Annexation can correct environmental problems resulting from failing private water and sewer systems.
  - Identity and sense of place.
  - Annexation creates higher land-use densities and changes rural character.
  - Annexation creates political and social upheaval.
  - Often contiguous areas already are part of the economic and social fabric of the city/town.
  - The requirements in the Indiana Code regarding contiguity, density, subdivision of property, and land use are sufficient to ensure that land being annexed is urban.
  - There are changes in lifestyle that result from the imposition of municipal laws.
  - Zoning often changes with annexation. Owner loses the right to use a property as s/he wants.
  - Annexation contributes to the consumption of valuable farmland; the state does not have rules to protect farmland.
  - Annexation is related to urban sprawl; it is an inefficient use of land resources and contributes to inner-city decline.
  - There are general negative effects associated with development.
  - Development conflicts occur when farms and development mix. Livestock operations cause the greatest controversy.
  - Annexation sometimes results in the loss of wildlife areas.
-



Table 17: Miscellaneous Annexation Issues

- 
- The legislature should respect home rule and not impose an unnecessary number of requirements.
  - Need more federal and state monies to address growth issues.
  - School populations are growing. Who pays for the growth?
  - Need for better communication between cities, counties, schools about development issues.
  - There should be no growth for growth's sake.
  - Change Carmel back into a town.
  - Annexation issues are different for residential and commercial/industrial properties.
  - Growth impacts schools.
  - Star community in Mishawaka.
  - Indianapolis is successful without annexation.
  - Noblesville is trying to reach the Interstate 69.
- 

## 8.0 Annexation in the United States: An Overview

### General Approaches to Annexation

Over the last 50 years, a number of studies have classified and evaluated different procedures for annexation (McQuillen 1949; Dixon and Kerstetter 1959; Sengstock 1960; National League of Cities 1966; Hill 1978; US ACIR 1993; Adams and Freese 1995). Prior to 1960, McQuillin (1949) and Dixon and Kerstetter (1959) developed typologies to classify annexation practice. McQuillin classified boundary change procedures as those accomplished by statute, by ordinance, through petition and approval of electors, and through petition to a court. Dixon and Kerstetter's classification was more differentiated and had seven distinctions:

- Bilateral annexation (after consent of both fringe and city has been expressed by some combination of petition, referenda, and/or ordinance).
- Unilateral annexation (full power of city to effect an annexation by ordinance or charter amendment).
- Unilateral annexation by city subject to judicial remonstrance (opportunity for fringe area to appeal).
- Annexation by court order after initiation of proceedings by either the city or the fringe area.
- Annexation by approval of an outside body other than a court.
- Annexation by special act of the state legislature.

At about the same time, Sengstock (1960) developed a five-part system of classification:

- Legislative Determination, in which municipal boundary changes are made by special acts of the state legislature.
- Popular Determination, which involves voting, or the direct use of political power by people to determine if a municipal boundary change will take place.
- Municipal Determination, where a unit of local government is authorized to extend its boundaries by unilateral action of its governing body.

- Judicial Determination, when the court determines if a proposed boundary change will take place.
- Quasi-legislative Determination, when an independent non-judicial tribunal or board is empowered to determine if a proposed annexation shall take place.

Six years later, the National League of Cities (NLC 1966) completed a survey of state annexation practices. The study cited the three methods mentioned previously, using Sengstock's typology to classify state methods, and further generalized annexation methods in the typology shown below:

- The state legislature makes the boundary change directly by special act.
- The state legislature by statute authorizes a municipal council, a county governing body, a court, or the voters of the affected territories to make the determination.
- A combination or group of the bodies named above is authorized by the state legislature to determine boundary changes.

Sengstock's (1960) typology is the most frequently used and cited system for classifying generally approaches to annexation. Scholars have used this system in a series of studies to assess the relationship of practices to the frequency of annexations. It is useful to elaborate on how each of the five classifications work in practice.

### Popular Determination

Popular annexation gives the affected electorate or property owners the political power to determine whether a territorial expansion will take place. This method is the most widely used by states, alone or in combination with others. Its appeal comes from our nation's long democratic tradition as well as the belief that property owners should have a voice in the dispensation of their property.

Practically speaking, electors and property owners can express consent by initiating annexation with a petition signed by a majority of electors and/or property owners in the territory proposed for annexation, by referenda, or by written petition filed subsequent to initiation or passage of an annexation action by a municipality. In a few cases, a majority of electors and/or property owners have the power to veto an annexation action by a petition or by filing written objections.

With respect to referenda, there are three distinct groups that states allow to vote. Most commonly, the electorate and/or property owners within the area proposed for annexation are allowed to vote. In a few cases, the electors of the municipality also vote. In rare cases, the electors of the diminished territory are allowed to vote.

While initiation of annexation by electors or property owners that will not be followed automatically by a referendum often requires a super majority (75 or 100 percent), referenda elections commonly require only a simple majority for approval. In cases where the electors of the city vote, the two elections and results generally are considered separately. Double majorities are required to effect the annexation in these cases.

### Municipal Determination

The municipal method of annexation involves effecting annexation through the passage of a municipal ordinance. Where this method is predominant, states allow unilateral action to annex territory that meets specific requirements for urban character. As in Indiana, these include specifications for land use, population density and extent of subdivision. Other states require that the annexation be addressed in a comprehensive plan or overall strategy for annexation. States that allow unilateral annexation often require service plans for extension of services to the annexed territory.

### Judicial Determination

In states adopting judicial determination, a court is empowered to review annexation proceedings using a set of established guidelines and criteria. Even when court review is automatic, following initiation or upon appeal, review often is limited to review of procedural issues and compliance with statutory requirements. In only a few cases do legislative guidelines give courts the power to the prudence or equitability of the annexation.

### Quasi-Legislative (or Administrative) Determination

This method creates independent deliberative boards to determine whether annexation or other boundary changes shall occur. A few states (Alaska and Iowa) have state boards with members appointed by the governor. Most states choosing this method provide for local commissions that consist of various local officials from within a county or group of counties. As with judicial determination, legislatures impose guidelines and criteria that constrain decision making by these bodies.

### Legislative Determination

The legislative method of annexation involves passing special statutes in response to urgent or particular circumstances. This method is used primarily in states where procedures or methods of annexation are too burdensome or nonexistent. Many New England states do not have general statutes outlining the process for annexing unincorporated territory because they essentially have no unincorporated territory. Annexation in these states involves de-annexing property from one municipality and annexing it to another. In some cases they do have statutory processes for changing boundaries in this manner.

Direct acts by the state legislature also may be the only way to effect annexation in states with particularly rigorous statutory requirements. This method is limited by constitutional prohibitions against special legislation. States often use population categories to circumvent these prohibitions. Annexation is infrequent in states that utilize this method solely.

Since the National League of Cities study, Liner (1993) categorized each state's annexation practice using Sengstock's typology. IACIR research staff updated classifications by reviewing current state statutes. Table 18 classifies each of the 50 states with respect to the types of procedures that were used to annex territory in the 1970s and in 1997, respectively.

In the 1970s, 4 states were classified as having judicial determination, nine as legislative, 11 as municipal, 16 as popular, and 10 as quasi-legislative. The mix of classifications remained similar in 1997. Popular determination states increased in number while states allowing unilateral municipal annexation decreased similarly.

**Table 18: State Annexation Methods Classified by Sengstock Typology**

<b>1970s (Liner 1993)</b>				
<b>Legislative (9)</b> Alabama Delaware Connecticut Hawaii Maine Massachusetts New Hampshire Rhode Island Vermont	<b>Municipal (11)</b> Idaho Indiana Kansas Kentucky Missouri Nebraska North Carolina Oklahoma Tennessee Texas Wyoming	<b>Popular (16)</b> Arizona Arkansas Colorado Florida Georgia Louisiana Maryland Montana New Jersey New York Ohio Oregon West Virginia Wisconsin South Carolina South Dakota	<b>Judicial (4)</b> Illinois Mississippi Pennsylvania Virginia	<b>Quasi-legislative (10)</b> Alaska California Iowa Michigan Minnesota New Mexico Nevada North Dakota Utah Washington
<b>1997 (IACIR 1998)</b>				
<b>Legislative (6)</b> Connecticut Hawaii Maine New Hampshire Rhode Island Vermont	<b>Municipal (6)</b> Idaho Indiana Kansas Nebraska North Carolina Tennessee	<b>Popular (22)</b> Alabama Arizona Colorado Delaware Florida Georgia Kentucky Louisiana Maryland Massachusetts Montana New Jersey New York Ohio Oklahoma Pennsylvania South Carolina South Dakota Texas West Virginia Wisconsin Wyoming	<b>Judicial (6)</b> Arkansas Illinois Mississippi Missouri North Dakota Virginia	<b>Quasi-legislative (10)</b> Alaska California Iowa Michigan Minnesota Nevada New Mexico Oregon Utah Washington

### Specific Approaches to Annexation

The Sengstock methodology is a rather general method of classification that does not indicate specific differences in methods across states. In reality, most states use a combination of these methods or features of these methods, and the literature indicates that some form of popular determination in combination with

consent by municipal legislative bodies are common to the majority of states. Because of this overlap, it is helpful to examine particular practices.

In 1978, Hill classified annexation methods by a select set of specific practices, including:

- Municipal annexation authorized by general law;
- Initiated by petition of property owners in the area to be annexed (percentage of property owners required);
- Initiated by city ordinance or resolution;
- Public hearing required;
- Referendum and majority approval in city required;
- Referendum and majority approval (or majority written consent) in area to be annexed required; and
- Approval of governing body required.

US ACIR (1993) updated to 1990 the data collected by Hill. Adams and Freese (1995) reprinted the information presented by US ACIR and presented additional, specific information about southeastern states in an attempt to inform a legislative initiative to reform the process in Mississippi.

Data presented in these studies offer useful context to the debate regarding practices in Indiana. IACIR staff updated the two data sets (Hill and IACIR) by reviewing current state statutes regarding annexations (Table 19 and 20).

The two previous studies updated with data for 1997 provide a picture of annexation over time. These data indicate that between 1978 and 1990 there was an increase in the number of states that authorize annexation by general law. Since 1990, no additional states have passed such legislation.

Between 1978 and 1990, the number of states that allow property owners to initiate annexation increased by one; the states allowing initiation by ordinance or resolution increased by eight, or 33 percent. Since 1990, both forms of initiation have increased slightly. Three additional states have authorized initiation by land owner petition. Similarly, two new states provided mechanisms for initiation via municipal resolution or ordinance.

The requirement for majority approval within the annexing city remained constant between 1990 and 1997. In the previous interval, four additional states adopted such a provision. In 1990 as in 1997, however, only 14 states (28 percent) had such statutory provisions. The number of states requiring majority electoral or written approval in the area being annexed appears to have fallen from 23 to 19 between 1978 and 1990. In contrast, the data show a significant rise between 1990 and 1997. Careful study indicates that each of the states that were reported in the US ACIR report as having repealed these provisions between 1978 and 1990 are shown to have reimplemented them in 1997. This finding indicates a likely difference in interpretation of the data rather than a decrease and subsequent sharp increase. It is probable that the states allowing property owners or electors in territories proposed for annexation increased consistently between 1978 and the present.

Table 19: Changes in State Laws Regarding Annexation

State	Municipal annexation authorized by general law				Annexation initiated by petition of property owners in area to be annexed — percentage of property owners required.				Initiated by city ordinance or resolution				Public hearing required				
	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	
	Alabama	X	X	X	X		X	X	X	X	X	X	X				
Alaska	X	X	X	X		X	X	X		X	X	X			X	+	
Arizona	X	X	X	X	X	X	X	X	X					X	X	X	X
Arkansas	X	X	X	X	X	X	X	X	+					X	X	X	+
California	X	X	X	X	X	X	X	X	X					X	X	X	X
Colorado	X	X	X	X	X	X	X	X	X					X	X	X	X
Connecticut																	
Delaware		X	X	X		X	X	X	+				X				
Florida	X	X	X	X		X	X	X	+	X	X	X			X	X	+
Georgia	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Hawaii																	
Idaho	X	X	X	X						X	X	X					
Illinois	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Indiana	X	X	X	X	X	X	X	X	X	X	X	X			X	X	+
Iowa	X	X	X	X	X	X	X	X	X							X	+
Kansas	X	X	X	X	X	X	X	X		X	X	X		X	X	X	X
Kentucky	X	X	X	X						X	X	X		X	X	X	X
Louisiana	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Maine																	
Maryland	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Massachusetts		X	X	X													
Michigan	X	X	X	X	X	X	X	X	X					X	X	X	X
Minnesota	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Mississippi	X	X	X	X													
Missouri	X	X	X	X					+	X	X	X			X	X	+
Montana	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	-
Nebraska	X	X	X	X					+	X	X	X			X	X	+
Nevada	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X

Table 19 (cont'd): Changes in State Laws Regarding Annexation

State	Municipal annexation authorized by general law				Annexation initiated by petition of property owners in area to be annexed — percentage of property owners required.				Initiated by city ordinance or resolution				Public hearing required			
	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97
N. Hampshire																
New Jersey	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Mexico	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New York	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
North Carolina	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
North Dakota	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ohio	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oklahoma	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oregon	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pennsylvania		X	X	X									X			
Rhode Island																
South Carolina	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
South Dakota	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tennessee	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Texas	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Utah	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Vermont																
Virginia	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Washington	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
West Virginia	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wisconsin	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wyoming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>Totals</b>	<b>41</b>	<b>44</b>	<b>44</b>	<b>+0</b>	<b>33</b>	<b>34</b>	<b>37</b>	<b>+3</b>	<b>24</b>	<b>32</b>	<b>34</b>	<b>+2</b>	<b>20</b>	<b>27</b>	<b>31</b>	<b>+4</b>

Table 20: Changes in State Laws Regarding Annexation

State	Referendum and majority approval in city required			Change 90-97	Referendum and majority approval (or majority written consent) in area to be annexed required			Change 90-97	Approval of county governing authority required.			Change 90-97
	1978	1990	1997		1978	1990	1997		1978	1990	1997	
Alabama												
Alaska							X	X				
Arizona							X	X				
Arkansas	X	X		-			X	X				
California							X	X				X
Colorado							X	X			X	-
Connecticut												
Delaware								X	X			
Florida	X	X	X	X			X	X				
Georgia							X	X				
Hawaii												
Idaho												
Illinois	X	X	X	X			X	X				
Indiana												
Iowa	X		X	+				X			X	-
Kansas												
Kentucky		X	X	X				X	X			
Louisiana		X	X	X			X	X				
Maine												
Maryland		X	X	X				X	X			
Massachusetts												
Michigan	X	X	X	X			X	X			X	+
Minnesota							X	X				
Mississippi												
Missouri			X	+				X	X			
Montana		X		-			X	X			X	-
Nebraska											X	
Nevada											X	
N. Hampshire												



Table 20 (cont'd): Changes in State Laws Regarding Annexation

State	Referendum and majority approval in city required				Referendum and majority approval (or majority written consent) in area to be annexed required				Approval of county governing authority required.				Change 90-97
	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	1978	1990	1997	Change 90-97	
New Jersey	x				x								
New Mexico					x					x			-
New York					x	x	x	x					
North Carolina										x			-
North Dakota										x			-
Ohio					x					x	x	x	x
Oklahoma					x						x		+
Oregon	x	x	x	x	x								
Pennsylvania													
Rhode Island													
South Carolina	x	x	x	x	x	x	x	x					
South Dakota		x	x	x						x	x	x	x
Tennessee	x	x	x	x	x	x	x	x					
Texas			x	+	x	x	x	x					
Utah										x			-
Vermont													
Virginia													
Washington					x	x	x	x	x	x	x	x	x
West Virginia	x	x	x	x	x	x	x	x					
Wisconsin		x		-	x								
Wyoming													
<b>Totals</b>	<b>10</b>	<b>14</b>	<b>14</b>	<b>+0</b>	<b>23</b>	<b>19</b>	<b>28</b>	<b>+9</b>	<b>5</b>	<b>11</b>	<b>7</b>	<b>-3</b>	

Consistent in the rise of provisions for electoral self-determination, the number of states requiring a public hearing prior to annexation has risen over both periods of analysis. Twenty states had such provisions in 1978, 27 in 1990, and 31 in 1997. In the roughly 20-year period the net increase has been 11 states.

In general, the choice of general methods and specific practices involves tradeoffs between the interests of municipalities and municipal residents; property owners and residents in the territory to be annexed; and jurisdictions that will be diminished. For example, methods that provide for referenda prior to annexation may require more time and cost more than approaches that do not. Table 21 summarizes the arguments in favor and against each of the five basic approaches.

**Table 21: Arguments for and Against Approaches to Annexation**

Method	Use	Selected Arguments For Method	Selective Arguments Against Method
<b>Municipal Determination:</b>			
As in Indiana, municipalities can annex and extend boundaries unilaterally by votes of their legislative bodies.	Widely used in combination with other methods.	<ul style="list-style-type: none"> <li>▪ Administratively most efficient.</li> <li>▪ Aids in the solution of local problems.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Often done without adequate planning and communication.</li> <li>▪ Does not manage hostility and promote compromise.</li> <li>▪ Without sufficient administrative restraints may permit land grabbing. Cities may annex large areas that neither are developed nor anticipated for development in the near future.</li> <li>▪ Municipalities may choose not to annex depressed areas demanding more services than potential for revenue generation.</li> </ul>
<b>Popular Determination:</b>			
Annexation occurs by public referendum. Up to three different groups may vote: property owners or residents of the territory to be annexed; municipal residents; and residents of the diminished territory (county or township).	Widely used alone or in combination with other methods.	<ul style="list-style-type: none"> <li>▪ In the national tradition of self-determination. Allows people to live under the government of their choosing.</li> <li>▪ Check on ill-conceived or rash actions by municipal authorities.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Procedures like referenda are too tedious and expensive.</li> <li>▪ Allows residents to affect minority rule on issues that may benefit an area as a whole.</li> <li>▪ Residents living in fringe areas already have exercised their right of self-determination. Annexation simply confirms that land already is urban.</li> <li>▪ May mean that poor tax areas won't be annexed.</li> <li>▪ Interferes with administration of municipalities.</li> </ul>

Table 21 (con't): Arguments for and Against Approaches to Annexation

Method	Use	Selected Arguments For Method	Selective Arguments Against Method
<b>Judicial Determination:</b>			
<p>Courts decide annexation proposals. This procedure is separate and distinct from judicial review upon appeal.</p>	<p>Few states require judicial review of all annexations. In most cases, the courts get involved only after a remonstrance or appeal has been filed.</p>	<ul style="list-style-type: none"> <li>▪ Can be rational, deliberate, and unbiased. Not as susceptible to political influence.</li> <li>▪ Offers a mechanism to bring all issues to light. Minority interests have a chance to be heard.</li> <li>▪ Judges can maintain expertise in subject matter.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Distrust of judicial solutions to public policy problems.</li> <li>▪ Brings up separation of powers issues.</li> </ul>
<b>Quasi-Legislative Determination:</b>			
<p>An independent, non-judicial tribunal or board created by the state legislature (such as a Boundary Commission) determines the outcomes of annexation proposals.</p>	<p>Few states have this arrangement. States generally have not defined annexation as a state issue.</p>	<ul style="list-style-type: none"> <li>▪ May reduce disputes and rivalries between municipalities.</li> <li>▪ Forum for all parties to be heard.</li> <li>▪ Agency can retain experts for assistance with particular issues.</li> <li>▪ Can maintain expertise on the subject matter.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Creates another layer of government that costs time and money.</li> <li>▪ Unless charge is carefully crafted, can be found an unlawful delegation of legislative power.</li> <li>▪ Unpopular or controversial decisions may pressure legislature to curb activities.</li> <li>▪ Can be subject to state politics.</li> </ul>
<b>Legislative Determination:</b>			
<p>Municipal boundary changes only occur by special acts of the state legislature.</p>	<p>Used primarily in states in which procedures or alternate methods of annexation are too burdensome or non-existent.</p>	<ul style="list-style-type: none"> <li>▪ Simple and direct.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Suffers the common problems associated with special or local legislation: arbitrary and capricious legislation; excessive legislative interference in local affairs, improper balance between urban and rural issues, and the power of legislative courtesy.</li> <li>▪ Make long-range community planning difficult.</li> <li>▪ Not an effective method of solving problems.</li> </ul>

## 9.0 Critical Issues in Annexation

The preceding sections have reviewed the history of the debate over annexation, the annexation statute, the number of annexations during the past two decades, the taxes that are affected by annexation, examples of fiscal plans, Hoosier perspectives on annexation, and procedures used to govern annexation in other states. This section draws on these reviews to identify critical issues in annexation. The section also incorporates information from other sources, including the academic literature on annexation and municipal boundary changes.

Controversial issues over annexation are summarized in Table 22. These issues are presented in separate categories, although, as noted in Section 7, the categories overlap:

- political arguments,
- economic and fiscal arguments,
- administrative arguments,
- arguments over public health, environment, and quality of life,
- arguments about identity and sense of place, and
- other arguments.

**Table 22: The Controversy Over Annexation**

Arguments for Annexation	Arguments Against Annexation
<b>Political Arguments</b>	
▪ Residents of annexed territory gain ability to vote in municipality that dominates area.	▪ Residents may distrust governmental and political leaders in municipality.
▪ Business and professional leaders in annexed territory gain voice in political processes in municipality.	▪ Some procedures for annexation do not provide residents a voice in the process or provide opportunity to vote on annexation.
	▪ Annexation is arbitrary and pursued to increase political power of municipal leaders.
	▪ Interest in annexation may be limited to minority of citizens in territory to be annexed.
	▪ Territory residents lose opportunities for self-governance in service delivery.
<b>Economic and Fiscal Arguments</b>	
▪ Increases municipal tax base and bonding capacity.	▪ Increased taxes for residents and property owners in annexed territory.
▪ Eliminates start-up and administrative costs for special districts in annexed territory.	▪ Unit costs of service delivery may increase because of characteristics of annexed territory.
▪ May result in cheaper city services because of economies of scale in service delivery.	▪ Costs to municipality of services for new territory may exceed revenues from new taxes.
▪ Higher population may increase city's eligibility for grants.	▪ Municipality may be unable to finance services expected by residents of annexed territory.
▪ Eliminates free rider problem and makes sure that residents who use services like public parks share in costs of them.	▪ County, township, and special district tax revenue may decline.
▪ May enhance property values in annexed area.	
▪ May eliminate utility surcharges and lower fire insurance rates.	

Table 22 (con't): The Controversy Over Annexation

Arguments for Annexation	Arguments Against Annexation
<b>Administrative Arguments</b>	
<ul style="list-style-type: none"> <li>▪ New, needed services may be provided to residents of annexed territory.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Residents of territory may not want or need services that municipality will provide.</li> </ul>
<ul style="list-style-type: none"> <li>▪ May eliminate duplicate services and increase professionalism and efficiency in service delivery.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Some regulations, rules, and licenses may be in appropriate for territory.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Clarifies boundaries and responsibility for delivery of emergency and other services in particular areas.</li> </ul>	
<b>Arguments over Public Health, Environment, and Quality of Life</b>	
<ul style="list-style-type: none"> <li>▪ Annexation required to solve environmental and public health problems like failing septic systems .</li> </ul>	<ul style="list-style-type: none"> <li>▪ Municipal problems like crime may extend into territory.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Municipalities are forced to manage drainage and stormwater problems from unincorporated areas.</li> </ul>	
<ul style="list-style-type: none"> <li>▪ Unified planning and zoning reduces potential for land use conflicts at boundaries and strengthens growth management.</li> </ul>	
<b>Arguments about Identity and Sense of Place</b>	
<ul style="list-style-type: none"> <li>▪ New municipal boundaries better reflect true economic, physical, and sociological boundaries of community.</li> </ul>	<ul style="list-style-type: none"> <li>▪ People in unincorporated areas simply do not want to live in the municipality.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Increased size and population may increase prestige and political influence of municipality.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Residents may lose "rural" character that attracted them to the territory.</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Residents may prefer higher identify associated with separate status.</li> </ul>
<b>Other Arguments</b>	
<ul style="list-style-type: none"> <li>▪ Municipalities that cannot expand boundaries and grow lose vibrancy and ability to prosper.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Issues about annexation and services delivery decided in favor of downtown interests.</li> </ul>
<ul style="list-style-type: none"> <li>▪ The potential for annexation creates incentives for redevelopment in inner cities and encourages reuse of existing structures.</li> </ul>	
<ul style="list-style-type: none"> <li>▪ Annexation may help overcome economic or racial discrimination in service delivery.</li> </ul>	

The substantive arguments on either side of the debate over these issues have been listed as arguments for or against annexation. The purpose is to catalog the general arguments, recognizing that resolutions to specific issues of this discussion usually depend on the details of a particular case in a particular place at a particular point in time. Although the answers in specific cases depend on local circumstances, it is possible to gain insights into the more general issues from a survey of the way annexation is done elsewhere (Section 8) and from articles that have been written by people who work in the field of annexation. Many of these people write from an urban perspective and are concerned about the health of urban areas. These writers tend to be sympathetic to annexation and view it as an essential tool for managing the problems of urban growth or shifts in the location of urban populations.

## Political Issues

The most important issue to the people of Indiana is the political issue of participation in the annexation process. The Hoosiers who have brought this issue to the legislature are almost exclusively those people who have been annexed, or face annexation, into a municipality against their will. They want, and many will be satisfied with nothing less than, the right to vote on proposed annexations. Countering them, municipal leaders, regardless of the size of municipality, have argued that referenda requirements will hinder their ability to provide for the health of the communities they serve. They contend it will make it

difficult, if not impossible, to redress inequities that develop when residents in suburban areas consume municipal services but pay no municipal taxes.

The primary issue at the state level, then, is the issue of balance, specifically how to balance the rights of property owners with the needs of municipalities. As noted in Section 8, each state has resolved this issue in a different way. More than half of the states require referenda as a condition of annexation, most in some way require the consent of those to be annexed or have procedures for addressing their concerns. Indiana, with its version of municipal determination, is among a handful of states that give great discretion to municipalities. Compared to most other states, property owners in Indiana have relatively few opportunities to participate and relatively little power to control the outcome of annexation proposals that are initiated by municipalities.

Although Indiana is unusual among states, many experts believe that states should, in effect, emulate Indiana and make it easier for municipalities to annex. Prominent urbanist David Rusk, the former mayor of Albuquerque, has decried the decline of cities and the continued economic and racial segregation that is accelerated through suburbanization. He argues that states must act to “improve annexation laws to facilitate continuous central city expansion into urbanizing areas.” And in a paper titled “Rethinking Municipal Annexation Powers,” Laurie Reynolds, a Professor of Law at the University of Illinois College of Law, observes:

*Perhaps the strongest motivating force in determining the shape of state annexation statutes is the notion that individuals should have the right to choose the government under which they live.*

But she concludes:

*Close examination, however, reveals that the principle simply does not justify granting virtual veto power to residents in outlying areas who object to municipal annexation. Those who live on the fringe of a municipality have in fact exercised their right of self-determination; they have chosen to live in and be part of an urban area. Having made that choice, the municipality’s exercise of its annexation power would merely confirm the reality that this land already is urban. The nonresidents on the fringe should no more have the power to opt out of the responsibilities of urban life than should city residents be able to claim an exemption from taxes to support services they do not use. In many instances, then, the self-determination principle merely provides nonresidents a way to protect themselves from assuming the burdens, while letting them enjoy the benefits, of being part of a municipality.*

Reynolds then proposes:

*... expanded involuntary municipal annexation power to allow municipalities in both rural and urban areas to annex contiguous urbanized territory that is already a functional part of the municipalities they abut. To achieve this end, the wishes of the landowners, who often oppose annexation and the resulting higher taxes, must yield to the broader interests of the entire urban area. At the same time, however, the proposal recognizes the need to protect the rights of the annexed residents to receive municipal services. To that end, the scheme outlined here would provide enforceable methods of obtaining municipal services or, in the alternative, allow de-annexation.*

Reynold’s does not, however, propose to let municipalities annex property *carte blanche*. Rather, she argues that:

*... only land that meets a clearly defined level of urbanization should be eligible for annexation. Several separate prerequisites to annexation, when taken together, would ensure orderly municipal growth. They would also eliminate many of the abuses revealed in the case law, in which municipalities attempt to maximize their ability to annex by manufacturing eligibility with statutory requirements.*

She recommends three criteria for annexation: contiguity, limiting annexation to a single tract of land, and specific urbanization criteria for each tract. She notes that different states have developed workable approaches to each of these criteria. If adopted, these type of criteria could prevent cases in which truly rural residents are annexed in unwarranted situations.

From Rusk's and Reynold's perspectives, Indiana's annexation statute has many desirable features. Their perspective, moreover, seems to be representative of many urban experts across the nation. But their perspective is a national one, and as evidenced in section 8, at odds with national trends that show that requirements for referenda are increasing.

In Indiana, from a pragmatic, political perspective, the only direction to go is to grant additional rights to property owners. The options, which are discussed in Section 10, range from referenda requirements to a range of procedural changes such as improved notice, mandatory periods of time between public hearings and votes on referenda, and longer periods for remonstrance. The choice among these options is a value-laden one, and one that is only partially amenable to technical analysis. The resolution depends on political beliefs, values, and judgements.

## **Economic And Fiscal Arguments**

An issue nearly as explosive as the issue of one's right to choose the government under which one lives is the issue of taxes. Many people who are annexed resent paying increased taxes for services they may neither want nor need. No one contests the fact that taxes will increase for property owners who are annexed. The critical issue from the state's perspective again is an issue of balance, specifically, whether increases in taxes are reasonable given the services provided. Compared to the fundamental political issue of the right to self-determination, the state's interests in this issue seem narrower and greater deference to the judgements of local elected officials seems warranted.

It is clear, however, that the state creates significant incentives for annexation through its tax and fiscal policies. In particular, local governments annex because the property tax remains a primary source of revenues. Were the state to undertake significant tax reform such as capping or eliminating the property tax, motivations for and against annexation would change dramatically. Although it is beyond the scope of this report to speculate on the effects that different proposals for tax reform would have on annexation, it is important to note that effects would occur.

Under the existing annexation statute, the state's main interest with respect to economic and fiscal issues is to ensure that municipalities have the capacity to provide services promised to property owners who will be annexed. Even within this limited purview, contentious issues routinely emerge. As noted in Section 6, it is unclear whether or not fiscal plans are required when property owners initiate annexation and remonstrances do not occur. The statute could be reformed to specify when fiscal plans both do and do not have to be prepared.

Many Hoosiers who attended the public forums alleged that the fiscal plans typically are incomplete or inaccurate (Section 7). It was noted in Section 6 that, given their limited role under state statute, fiscal plans are unlikely to include a complete accounting of all fiscal effects, let alone all economic effects. One option for reform is to expand the requirements for analysis to include more complete accounting of

impacts. Standard procedures for analyses could be developed. If requirements for fiscal plans were to become more stringent, however, it also would become more important to clarify the situations in which they are required. For example, the law could be changed to make it clear that fiscal plans are not necessary in cases where individual property owners petition to be annexed.

The magnitude of tax increases is another important fiscal issue. Although many people argued that municipalities need more revenues because of inefficient management, no specific evidence of this was presented, and municipal officials strongly contested the allegation. The questions of whether taxes are too high for particular services, and whether taxes paid by property owners cover the costs of all services, are quite complex. In general, the answer to the former question is that costs are site specific and, while outliers can be identified, the reasonableness of taxes depends on local factors. The planning literature generally suggests that the taxes paid by the residential sector do not cover all costs of services and that commercial and industrial sectors are important. Controlling for characteristics of service delivery, taxes tend to be higher in places with proportionately less commercial and industrial development. One option to address issues related to the magnitude of tax increases is to use tax abatement authority more frequently or to phase in tax increases for property owners who are annexed. Although phasing of tax increases is an option, this approach reduces the revenues available to municipalities to finance capital and other services necessary to serve the annexed territory.

## Administrative Issues

Although administrative issues are intertwined with both political and economic concerns, they can be distinguished because of their relative specificity. Among important administrative issues are issues related to criteria for annexation, requirements for service delivery, and the right of property owners to remonstrate.

One important administrative issue concerns criteria for annexation. As noted in Section 3, municipalities can annex property in Indiana so long as one of two multi-part criteria is met. The first criterion is specific in terms of contiguity and density. The second is more general and, provided contiguity requirements are met, allows municipalities to annex so long as municipal officials determine the land is needed for the continued growth and development of the municipality. Many municipalities have used this second criterion to annex land that is relatively rural in character. One way to reduce annexation and limit some of the more contentious annexations would be to tighten this criterion.

Closely tied to the issue of whether taxes are reasonable are several other administrative issues related to service delivery, including equity in service delivery. Indiana law requires that services in an annexed area be the same as services in comparable areas of the city. Although this provision seems reasonable on face value, it can be used to justify failure to deliver certain services. For example, municipal officials could determine that undeveloped areas do not need a particular service because other undeveloped areas within the municipality do not receive it. Greater clarity with respect to the specific services to be provided could eliminate potentially contentious issues.

Another administrative issue involves the property owner's right to remonstrate. Developers often waive the right to remonstrate when negotiating extension of services and include these waivers on property when it is resold. Individuals who purchase lots then are precluded from remonstrating. Some people complained in the forums that their rights were taken from them and recommended that developers be prevented from waiving the right to remonstrate. It is uncertain whether attempts to restrict developers would be constitutional, and even if they were, it would reduce the flexibility that developers and municipalities have to negotiate. An evaluation of this issue by the Attorney General might be warranted. Another perspective on the problem is to view it as a problem related to real estate disclosure. The state



has a long history of increasing requirements for disclosure at real estate transactions. So long as the information is available, *Caveat emptor* – buyer beware!

## Other Issues

Although public health, environmental, and other issues are important, they tend to be overshadowed by political, economic, and administrative issues. Upon reflection, it is evident that some of these issues, while difficult to quantify, constitute some of the most important rationales for annexation. It is a cliché that environmental problems do not respect political boundaries, but in fact problems related to management of water and air resources constitute a strong argument for annexation. For example, municipalities that rely on groundwater for public drinking water supply must comply with federal and state requirements to protect their wells from contamination. It often is the case that the recharge areas that supply municipal water systems extend beyond municipal boundaries. Annexation is one way that municipalities can gain control over the territory required to protect the drinking water supply. Similarly, municipalities often are responsible for managing stormwater runoff and drainage. Failure to manage stormwater can increase flooding in urban rivers and streams. Developments in suburban unincorporated areas often are not subject to the same requirements for stormwater management as are developments within municipal areas. To the extent that municipal managers must contend with runoff generated in outlying areas, municipal residents subsidize the suburban residents. Carefully planned annexation can help remedy this type of inequity and help improve the environment.

Issues related to identity and sense of place also are important. Many long-term residents of unincorporated areas simply do not want to be part of a municipality. They may want to retain the rural character of their home or prefer the status of living in a separate place. If people hold these values dearly, nothing short of stopping annexation will satisfy them.

# 10.0 Options for Annexations in Indiana

The debate over annexation in Indiana is complex and involves many political, economic, and administrative issues. The most intensely debated issues are those that concern the rights of property owners to participate in the annexation process. A set of options for reform of the Indiana annexation statute that would address the issue of representation as well as other important issues is presented in Table 23. These options are based on the general framework for classifying approaches to annexation described in section 8. Two options, judicial determination and legislative determination, are not included in Table 23 because little support was voiced for these options at the public forums. There appears to be little expert support for these approaches, and each would be a radical departure from existing procedures.

The purpose of presenting the options in Table 23 is to demonstrate the types of choices available to the legislature. These options are illustrative: there are literally an infinite number of ways that the statute could be modified to address the issues that have been identified. The options range from no change (that is, continued reliance on municipal determination) to new requirements that would give people the right to vote on all contested annexations (that is, establish popular determination). Within any given option, a myriad of choices could be made. For example, if it was determined that a referendum were the way to resolve contested annexations, choices would have to be made about who votes and the majority of electors required for passage of the referendum. This presentation focuses on the broader issues and not the details of requirements, although examples of detailed requirements are provided. For each option, the

Table 23: Options for Reform of Involuntary Annexation Procedures in Indiana

General Effects of Reform			Effects on Stakeholders
Options	Effects on Annexation	Issues in Implementation	
1. Municipal Determination			
a. Leave statute intact.	None. Some unwarranted annexations continue to occur.	None, but controversies, legislative debate, and costly litigation continues.	Property owners and officials of diminished jurisdictions remain dissatisfied.
b. Leave statute intact, address motivation for annexation through other laws (examples: tax reform to eliminate property tax, provide municipalities extraterritorial control over zoning and land use).	Uncertain; depends on the likelihood and type of reforms. Property tax reform would reduce annexation more than expansion of extraterritorial control.	Tax reform more volatile than annexation reform. Difficult to reach consensus on changes in municipal authority for extraterritorial control.	Property owners and officials of diminished jurisdictions remain dissatisfied unless change really occurs.
2. Modified Municipal Determination			
a. Leave statute essentially intact, but amend to increase fairness and make requirements for annexation more rigorous (examples: require notice, increase time for remonstrance, increase density requirements, require more detailed fiscal plans and analyses).	Some reductions in annexation because of greater opportunities for remonstrance and higher technical standards. Fewer unwarranted annexations.	Incremental changes in law easier to pass in legislature than complete reform.	Property owners acknowledge reforms but still object to lack of referenda. Incrementally higher cost for annexation because of expense of notice, increased duration of process, and increased costs of technical analyses.
b. Extend St. Joseph County provisions to the remainder of state (court required to disallow annexation if remonstrators collect signatures from a majority of property owners or more than 75 percent of assessed value of the land to be annexed).	Significant reduction in annexations because municipalities will not proceed when officials know majority of property owners will prevail on remonstrance. Some annexations in the public interests will not occur.	Probably easier to pass than changes to quasi-judicial or popular determination because change would be perceived as making Indiana law uniform and fairer.	Property owners obtain veto power. Municipal officials lose authority and discretion to act in the interests of municipal residents. Officials of diminished jurisdictions affected less often.
3. Combined Municipal and Quasi-Legislative Determination: keep statute (municipal determination) intact, but allow remonstrators appeal to state-appointed boundary commission for decision on merits of case.	Reduces annexation because process is more cumbersome, expensive, and technical, unbiased review of cases reduces unwarranted annexations.	Some people view boundary commission as new, costly bureaucracy, doubt it will be neutral, and believe political decisions should not be made by technocrats.	Property owners still object to lack of referenda. Higher municipal costs for annexation because of cost of commission review. Officials in diminished jurisdictions gain forum to express views.
4. Combined Municipal Determination and Popular Determination (Voting): keep statute, but allow remonstrators to petition for referendum on annexation.	Similar to Option 1b (expansion of St. Joseph County provisions): significant reduction in annexations; some annexations in the public interest will not occur.	Major changes in statute is probably more difficult to pass than Option 1b but easier than Option 3 given support from property owners.	Property owners gain right to referendum. Municipal officials lose authority and discretion. Officials of diminished jurisdictions only lose territory when residents do not want their services.

**Table 23 (cont'd): Options for Reform of Involuntary Annexation Procedures in Indiana**

General Effects of Reform			
Options	Effects on Annexation	Issues in Implementation	Effects on Stakeholders
5. Quasi-Legislative Determination: require municipalities to propose boundary changes to state-appointed boundary commission that decides on merits of case.	Reduces annexation because process is more cumbersome, expensive, and technical, unbiased review of cases reduces unwarranted annexations.	May be more difficult to pass Options 4 and 6 because municipal officials lose authority and property owners are not granted referenda.	Property owners gain forum but still object to lack of voting. Municipal officials face higher costs and impartial scrutiny. Officials of diminished jurisdictions gain forum.
6. Popular Determination (Voting): require referenda on all contested annexations.	Significant reduction in annexations. Some annexations in the public interest will not occur.	Major change in statute is difficult to pass, but probably easier than Options 3 and 5 because of support from property owners.	Same as Option 4: property owners gain referendum; municipal officials lose authority and discretion. Officials of diminished jurisdictions only lose territory when residents do not want their services.

Note: Other combinations are possible, but these six represent the basic types of changes that could be made. For each option, procedural and substantive requirements could be modified to increase fairness and to make technical requirements for annexation more rigorous. Examples of procedural changes to increase fairness include notice to individual property owners and additional time for remonstrators. Examples of substantive changes include greater contiguity or density requirements and specific requirements for fiscal plans.

probable effects on annexation are described, issues in implementation are noted, and the effects on stakeholders are listed.

## Municipal Determination

One option is to leave the present statute intact. Under this option, municipalities would continue to have flexibility for pursuing annexations they deem to be in the interest of their community and citizens, and Hoosiers opposed to annexation would continue to be frustrated with the perceived inequities in the process. Costly political controversy and litigation would continue.

Even if the legislature decided to leave the statute intact, it could influence annexation through other reforms. For example, property tax reform could reduce or eliminate the motivation for annexation. Given the high profile and potential distributive implications of tax reform, however, it is highly unlikely that considerations about annexation would play a significant role in the debate. Attempts to deal with annexation indirectly through other policies, therefore, are unlikely to address the concerns of many stakeholders.

## Modified Municipal Determination

A second option is to retain municipal determination but modify the statute incrementally to address many of the concerns raised by people. Specific procedural changes would address many of the most important political, administrative, and economic issues raised by opponents of annexation, but would not give them virtual veto power over annexation. Examples of specific modifications that would make the process more fair, more open, and less frequent include:

- A requirement that municipalities notify all property owners directly by certified mail of proposed annexations;
- A requirement that municipalities notify elected county and township officials directly by certified mail of proposed annexations;
- A requirement that would prevent municipalities from adopting annexation ordinances on the day of public hearings and allow them to adopt annexation ordinances only after some specified period after the hearing;
- A requirement that remonstrators be given more than 60 days to gather the signatures necessary to remonstrate;
- A requirement that municipalities wait longer than two years following a failed attempt to annex prior to trying again;
- Changes in the contiguity or density requirements for annexation, including clarification of the meaning of option two, that the “territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future;”
- Clarification of the requirements for delivery of services and a requirement that public notice include a list of the dates that specific services will commence; and
- Clarification of requirements for fiscal plans, including guidelines for allocation of costs.

These types of changes would address many of the specific concerns addressed by stakeholders, but would leave some opponents frustrated because they leave municipal determination intact. Municipal officials generally supported these types of changes at the public forums. By making annexation more difficult and giving remonstrators more opportunity and time to organize, these types of changes probably would reduce annexation somewhat.

## Combined Municipal and Quasi-legislative Determination

A third general approach would be to combine municipal determination with some type of quasi-judicial process in which contested annexations are decided by some type of neutral third party such as a boundary commission. In this approach, opponents of specific annexations would have the right to appeal municipal annexations to a court or a special commission for a hearing on the merits. At present, judicial review of remonstrances essentially is limited to procedural issues.

Creation of a substantive appeals process would slow the rate of annexation because municipalities would have to document the merits of their proposals more carefully and annexation would become more costly. Opponents of annexation would welcome the opportunity to appeal the merits of particular cases, but they still would be frustrated by the lack of self-determination.

## Combined Municipal and Popular Determination

Municipal determination also could be combined with popular determination in different ways. One approach would be to extend the St. Joseph County provisions of the annexation statute to the balance of the state. The St. Joseph provisions, which effectively grant remonstrators veto power over annexation (see Section 2), would significantly reduce annexations in the state. Some annexations in the public interest probably would be stopped. Municipal officials likely would oppose this modification; most opponents of annexation probably would support it.

A second option for combining these approaches would involve granting people who face annexation the right to petition for a referendum. This option also would reduce the number of annexations in Indiana. Compared to extending the St. Joseph county provisions to the balance of the state, this option probably would be more expensive and more difficult to pass. It would be more expensive because referenda are more expensive than certified petitions and more difficult to pass because it is a greater departure from current practice.

## Quasi-legislative Determination

A fifth option that would represent a significant departure from current practice would involve creation of a quasi-legislative, neutral third party such as a boundary commission that would be responsible for deciding or arbitrating all or most annexations. Within this approach, except for annexations initiated by property owners, municipalities would propose annexations to the commission that would hold hearings and decide the cases on their merits. This type of procedure would professionalize the annexation process and reduce political considerations more than any other option. However, municipal officials and opponents might find this process cumbersome and expensive. From the state's perspective, this option would be more expensive, since it would involve the creation of a commission that might be required to hear 50 to 200 cases per year.

## Popular Determination

A sixth option would be to eliminate municipal determination and limit annexation to cases in which property owners have voted to approve it. This would stop some annexations but not those initiated by property owners who desire and are willing to pay for municipal services. The significance of the effect on annexation depends in part on the majority requirements of the referendum. For example, if a simple majority (51 percent) of residents or property owners were required, annexation would be more likely than if a super-majority of 67 percent or 75 percent or even 100 percent were required. An proposal to establish popular determination, which would be welcomed by critics of annexation, would be opposed by municipal officials.

---

# Selected Bibliography

- "Annexation Etiquette," editorial, *Noblesville Daily Ledger*, 27 April 1998, A4.
- "Annexation is Logical Product of Local Growth," editorial, *Lafayette Journal and Courier*, 27 August 1998, A9.
- Adams, Alicestyne and Brian Paul Freese. *Mississippi Initiative Measure No. 6: A Comparative Study of Mississippi Municipal Annexation*. Starkville: John C. Stennis Institute of Government, 1995.
- Bennett, David J., and Stephanie E. Stulich. *Financing Local Government in Indiana*. Fort Wayne, Indiana: Lincoln Printing Corporation, 1992.
- City of Fort Wayne. *Annexation Fiscal Plan: Northeast Annexation Amended*. Fort Wayne, Indiana, 1989.
- Dixon, Robert G., and John R. Kerstetter. *Adjusting Municipal Boundaries: the Law and Practice in 48 States*. Interim mimeo, Washington, D.C.: American Municipal Association, 1959.
- Edwards, Jack D., *Neighbors and Sometimes Friends: Municipal Annexation in Modern Virginia*. Charlottesville: University of Virginia, 1992.
- "Fate of Cities Core Issue in Annexation Debate," editorial, *Fort Wayne Journal Gazette*, 23 August 1998, C1.
- Fleishmann, Arnold. "The Goals and Strategies of Local Boundary Changes: Government Organization or Private Gain?," *Journal of Urban Affairs*. 8, no. 4 (1986): 63-76.
- Galloway, Thomas D., and John D. Landis. "How Cities Expand: Does State Law Make a Difference?," *Growth and Change*. 17 (1986): 25-45.
- Gregory, Michelle. "Annexation Primer for Planner," *Zoning News*. Chicago: American Planning Association, 1995.
- Grove, Sharon A. *Grassroots Government Townscape (newsletter)*. National Association of Towns and Townships, September 1992.
- Hill, Joel. "Annexation Boundary Changes in the 1980s and 1990-1991," in *The Municipal Yearbook 1993*. Washington D.C.: International City/County Management Association, 1993.
- Hill, Joel. "Boundary Changes, 1990-1995," in *The Municipal Yearbook 1997*. Washington D.C.: International City/County Management Association, 1997.
- Hill, Melvin B. 1978. *State laws governing local government structure and administration*. Athens, GA: Institute of Government.
- Indiana Advisory Commission on Intergovernmental Relations. *Annexation Forums*. Indianapolis: Center for Urban Policy and the Environment, 1998.

- Indiana Advisory Commission on Intergovernmental Relations. *Annexation Issues: Progress Report 1 to the Legislative Council*. Indianapolis: Center for Urban Policy and the Environment, 1997
- Indiana Advisory Commission on Intergovernmental Relations. *Annexation Issues: Progress Report 2 to the Legislative Council*. Indianapolis: Center for Urban Policy and the Environment, 1998
- Indiana Advisory Commission on Intergovernmental Relations. *Annexation Issues: Progress Report 3 to the Legislative Council*. Indianapolis: Center for Urban Policy and the Environment, 1998
- Indiana Local Government Study Commission. *Understanding The New Local Government Law*. Indianapolis: State of Indiana, 1981.
- Interim Study Committee on Local Government Issues. *Final Report of the Interim Study Committee on Local Government Issues*. Indianapolis: Indiana Legislative Services Agency, 1982.
- Interim Study Committee on Local Government Issues. *Final Report of the Interim Study Committee on Local Government Issues*. Indianapolis: Indiana Legislative Services Agency, 1994.
- Interim Study Committee on Local Government Issues. *Final Report of the Interim Study Committee on Local Government Issues*. Indianapolis: Indiana Legislative Services Agency, 1995.
- Liner, Gaines H. "Annexation Rates and Institutional Constraints," *Growth and Change* 21, no.4 (Fall 1990): 80-94.
- Liner, Gaines H. "Institutional Constraints and Annexation Activity in the U.S. in the 1970s," *Urban Studies* 30, no. 8 (1993): 1371-1380.
- McQuillin, Eugene. *The Law of Municipal Corporations*. Chicago: Callaghan and Company, 1949
- National League of Cities. *Adjusting Municipal Boundaries: Law and Practice*. Washington, D.C.: 1966.
- Office of Fiscal and Management Analysis. *Indiana Handbook of Taxes, Revenues, and Appropriations*. Indianapolis: Indiana Legislative Services Agency, 1996.
- Razin, Eran. "Policies to Control Urban Sprawl: Planning Regulations or Changes in the 'Rules of the Game.'" *Urban Studies* 35, no. 2 (1998): 321-340.
- Reynolds, Laurie. "Rethinking Municipal Annexation Powers," *The Urban Lawyer* 24, no. 2 (spring 1992): 247-303.
- Rusk, David. *Cities Without Suburbs*. Washington D.C.: Woodrow Wilson Center Press, 1993.
- Sengstock, Frank S. *Annexation: A Solution to the Metropolitan Area Problem*. Ann Arbor: University of Michigan, 1960.
- The Size of Municipalities, Efficiency, and Citizen Participation*, Volume 56 published in a series titled, Local and regional authorities in Europe. Strasbourg: Council of Europe, 1995.
- U.S. Advisory Commission Intergovernmental Relations (US ACIR). 1993. *State laws governing local government structure and administration*. Washington D.C.: Government Printing Office.

Wabash Scientific, Inc. *Wabash, Indiana Annexation Study and Fiscal Plan: Spiece Parcel*. Indianapolis, 1997.

Wabash Scientific, Inc. *City of Lafayette, Indiana Annexation Fiscal Plan: SLA Annexation Area*. Indianapolis, 1998.

Zimmerman, Joseph F. *State-Local Relations: A Partnership Approach*. Westport, Connecticut: Praeger Publishers, 1995.



# Appendix 1:

## Indiana Annexation Statute

(As Amended Through 1998 Regular Session)

## Municipal Annexation and Disannexation (IC 36-4-3)

### IC 36-4-3-1

Sec. 1. This chapter applies to all municipalities except consolidated cities. However, sections 3 and 21 of this chapter do not apply to towns.  
As added by Acts 1980, P.L.212, SEC.3.

### IC 36-4-3-1.5

Sec. 1.5. For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.  
As added by Acts 1981, P.L.308, SEC.1.

### IC 36-4-3-1.6

Sec. 1.6. (a) For purposes of this chapter, the acreage of the territory sought to be annexed that is covered by a public or private lake shall not be considered when determining whether the territory meets the population density or subdivision percentages required by this chapter.

(b) This section does not affect the definition of "contiguous" prescribed by section 1.5 of this chapter.  
As added by P.L.348-1983, SEC.1.

### IC 36-4-3-2

Sec. 2. Territory may be annexed by a municipality under section 3 or 4 of this chapter. However, a municipality may not annex territory that is inside the corporate boundaries of another municipality, although municipalities may merge under IC 36-4-2.  
As added by Acts 1980, P.L.212, SEC.3.

### IC 36-4-3-2.1

Sec. 2.1. A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. All interested parties must have the opportunity to testify as to the proposed annexation. Notice of the hearing shall be published in accordance with IC 5-3-1.  
As added by P.L.231-1996, SEC.1.

### IC 36-4-3-2.5

Sec. 2.5. (a) As used in this section, "public highway" has the meaning set forth in IC 9-25-2-4.

(b) An annexation of territory under this chapter after June 30, 1996, that includes land contiguous to a public highway must also include contiguous areas of:

- (1) the public highway; and
- (2) rights-of-way of the public highway.

As added by P.L.232-1996, SEC.1.

### IC 36-4-3-3

Sec. 3. (a) The legislative body of a municipality may, by an ordinance defining the corporate boundaries of the municipality, annex territory that is contiguous to the municipality, subject to subsection (b).

(b) If territory that was not contiguous (under section 1.5 of this chapter) was annexed in proceedings begun before May 1, 1981, an ordinance adopted after April 30, 1981, may not annex additional territory that is contiguous when the contiguity is based on the additional territory's boundaries with the previously annexed territory.

(c) Subsection (b) does not apply when the previously annexed territory has been used as

a part of the contiguous boundary of separate parcels of land successfully annexed to the municipality before May 1, 1981.

(d) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance described by subsection (a) must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district. As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.2; P.L.333-1985, SEC.2; P.L.5-1989, SEC.91; P.L.3-1993, SEC.262.

#### IC 36-4-3-4

Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

(1) more than seventy-three thousand (73,000) but less than seventy-five thousand (75,000);

(2) more than sixty thousand (60,000) but less than sixty-five thousand (65,000);

(3) more than forty-one thousand (41,000) but less than forty-two thousand five hundred (42,500);

(4) more than thirty-eight thousand three hundred (38,300) but less than thirty-eight thousand five hundred (38,500);

(5) more than thirty-five thousand four hundred (35,400) but less than thirty-six thousand (36,000);

(6) more than twenty-four thousand eight hundred (24,800) but less than twenty-five thousand (25,000);

(7) more than twenty-two thousand (22,000) but less than twenty-three thousand (23,000); or

(8) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000)

but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a municipality having a population of more than thirty-two thousand (32,000) but less than thirty-three thousand (33,000) that is located within a county having a population of more than seventy-three thousand (73,000) but less than seventy-five thousand (75,000). The legislative body of a municipality may, by ordinance, annex territory that:

(1) is not contiguous to the municipality;

(2) has its entire area not more than eight (8) miles from the municipality's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the municipality or by a property owner that consents to the annexation.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.91-1985, SEC.2; P.L.379-1987(ss), SEC.12; P.L.5-1989, SEC.92; P.L.12-1992, SEC.156; P.L.62-1992, SEC.2; P.L.2-1993, SEC.202; P.L.257-1993, SEC.1; P.L.1-1994, SEC.174; P.L.166-1994, SEC.1; P.L.79-1996, SEC.2; P.L.255-1997(ss), SEC.9; P.L.2-1998, SEC.83.

#### IC 36-4-3-4.1

Sec. 4.1. (a) This section applies to municipalities:

(1) having a population of more than ten thousand (10,000) but less than fifteen thousand (15,000) located in a county having a population of more than seventy-five thousand (75,000) but less than seventy-eight thousand (78,000);

(2) having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850) located in a county having a population of more than one hundred seven thousand (107,000) but less than one hundred eight thousand (108,000); and

(3) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subdivision (a)(1), has its entire area within the township within which the municipality is primarily located; and

(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a municipality having a population of:

(1) more than six thousand (6,000) but less than six thousand five hundred (6,500); or  
(2) more than eight thousand seven hundred (8,700) but less than eight thousand nine hundred (8,900);  
in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that is classified for zoning purposes as agriculture and remains exempt from the property tax liability while the property's zoning classification remains agriculture.

(e) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

As added by P.L.166-1994, SEC.2. Amended by P.L.79-1996, SEC.3; P.L.71-1997, SEC.3; P.L.224-1997, SEC.1; P.L.253-1997(ss), SEC.31.

#### IC 36-4-3-4.5

Sec. 4.5. Section 4(g) of this chapter does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1.

As added by P.L.3-1993, SEC.263. Amended by P.L.255-1997(ss), SEC.10.

#### IC 36-4-3-5

Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; 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) If the legislative body fails to pass the ordinance within sixty (60) days after the date of filing of a petition under subsection (a), 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.

(c) 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.

(d) 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.

(e) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), 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 city services and facilities are or can be made available to the residents of the territory sought to be annexed;

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

(3) the territory sought to be annexed is contiguous to the city.

If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.3; P.L.5-1989, SEC.93; P.L.3-1993, SEC.264; P.L.255-1997(ss), SEC.11.

#### IC 36-4-3-6

Sec. 6. (a) A certified copy of an ordinance adopted under section 3 of this chapter is conclusive evidence of the corporate boundaries of the municipality in any proceeding.

(b) A certified copy of an ordinance adopted under section 4 of this chapter is conclusive evidence in any proceeding that the territory described in the ordinance was properly annexed and is a part of the municipality.

As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-7

Sec. 7. (a) After an ordinance is adopted under section 3, 4, or 5 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b) or (c), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least sixty (60) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, or 5 of this chapter 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 2 of the year in which a federal decennial census is conducted.

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

(d) Except as provided in subsection (b), 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) 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 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) If the fire protection district from which a municipality annexes territory under subsection (d) 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.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.4; Acts 1982, P.L.33, SEC.21; P.L.341-1987, SEC.1; P.L.5-1989, SEC.94.

#### IC 36-4-3-8

Sec. 8. An ordinance adopted under section 3 or 4 of this chapter may include terms and conditions fairly calculated to make the annexation equitable to the property owners and

residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation;
  - (2) impounding in a special fund all or part of the municipal property taxes imposed on the annexed territory after the annexation takes effect, in an amount and for a period, not to exceed three (3) years, determined by the municipal legislative body, and using the impounded taxes solely for the extension of municipal services and benefits and the making of municipal or public improvements for the benefit of the property owners and residents of the annexed territory; and
  - (3) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.
- As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-8.5

Sec. 8.5. (a) A municipality may, in an ordinance adopted under section 3 or 4 of this chapter, abate a portion of the property tax liability under IC 6-1.1 for municipal purposes for all property owners in the annexed territory.

(b) An ordinance adopted under subsection (a) must provide the following:

- (1) A tax abatement program that is in effect for not more than three (3) taxable years after an annexation occurs.
- (2) Except single family residential property described by subdivision (3), a tax abatement for all classes of property that does not exceed:
  - (A) seventy-five percent (75%) of a taxpayer's liability in the first year of the abatement program;
  - (B) fifty percent (50%) of a taxpayer's liability in the second year of the abatement program; and
  - (C) twenty-five percent (25%) of a taxpayer's liability in the third year of the abatement program.
- (3) For a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), a tax abatement for single family residential property that does not exceed:
  - (A) ninety percent (90%) of a taxpayer's liability in the first year of the abatement program;
  - (B) eighty percent (80%) of a taxpayer's liability in the second year of the abatement program;
  - (C) sixty percent (60%) of a taxpayer's liability in the third year of the abatement program;
  - (D) forty percent (40%) of a taxpayer's liability in the fourth year of the abatement program; and
  - (E) twenty percent (20%) of a taxpayer's liability in the fifth year of the abatement program.
- (4) The procedure by which an eligible property owner receives a tax abatement under this section.

As added by P.L.379-1987(ss), SEC.13. Amended by P.L.56-1988, SEC.12; P.L.12-1992, SEC.157; P.L.231-1996, SEC.2; P.L.255-1997(ss), SEC.12.

#### IC 36-4-3-8.6 Repealed

(Repealed by P.L.3-1989, SEC.228.)

#### IC 36-4-3-9

Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) This subsection does not apply to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty-seven thousand

(27,000).

A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city.

(c) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.213, SEC.5; P.L.257-1993, SEC.2.

#### IC 36-4-3-9.1

Sec. 9.1. A municipality may annex territory within a county only if:

- (1) part or all of that municipality was within the county on January 1, 1982; or
- (2) the consent of the executive of the county is first obtained.

As added by Acts 1982, P.L.210, SEC.2.

#### IC 36-4-3-10

Sec. 10. (a) If the township from which a municipality annexes territory is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation, 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 bears to the assessed valuation of all property in the township, 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.

(b) The annexing municipality shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds or notes becomes due.

As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-11

Sec. 11. (a) 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) a majority 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 sixty (60) days after the 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.

(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.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.95.

#### IC 36-4-3-11.5

Sec. 11.5. A landowner in an unincorporated area is not required to grant a municipality



a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

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

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

As added by P.L.172-1995, SEC.4.

#### IC 36-4-3-12

Sec. 12. (a) The circuit or superior court shall:

(1) on the date fixed under section 11 of this chapter, hear and determine the remonstrance without a jury; and

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

(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.96.

#### IC 36-4-3-13

Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

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

(2) The requirements of subsection (d).

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

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

(2) One (1) of the following:

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

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

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

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

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

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

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed a written fiscal plan and has established a definite policy, by resolution of the legislative body, as of the date of passage of the annexation ordinance. The resolution must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed.

(2) The method or methods of financing the planned services.

(3) The plan for the organization and extension of services.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation, and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries that have similar topography, patterns of land use, and population density. However, in a county having a population of more than two hundred thousand

(200,000) but less than three hundred thousand (300,000), the resolution of a city must show that these services will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, or population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation, in the same manner as those services are provided to areas within the corporate boundaries, that have similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the resolution of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided

to areas within the corporate boundaries, regardless of similar topography, patterns of land use, or population density.

(6) The plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation, although the municipality is not required to hire any employees.

(e) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). 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.

(f) The federal census data established by IC 1-1-4-5(17) 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.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.161; Acts 1981, P.L.308, SEC.5; Acts 1982, P.L.33, SEC.22; P.L.56-1988, SEC.13; P.L.257-1993, SEC.3; P.L.4-1997, SEC.13; P.L.255-1997(ss), SEC.13.

IC 36-4-3-14

Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the remonstrance, and during the time within which the remonstrance may be taken, the territory sought to be annexed is not considered a part of the municipality.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-15

Sec. 15. (a) The court's judgment under section 12 or 15.5 of this

chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

(1) record the judgment in the clerk's ordinance record; and

(2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory during the two (2) years after the later of:

(1) the judgment of the circuit or superior court; or

(2) the date of the final disposition of all appeals to a higher court;

unless the annexation is petitioned for under section 5 of this chapter.

(c) 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.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.6; P.L.56-1988, SEC.14; P.L.5-1989, SEC.97; P.L.12-1992, SEC.158; P.L.231-1996, SEC.3; P.L.2-1997, SEC.82.

IC 36-4-3-15.3

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).

As added by P.L.300-1989, SEC.1.

IC 36-4-3-15.5

Sec. 15.5. (a) An owner of land within one-half (1/2) mile of

territory proposed to be annexed under this chapter may, within sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing

municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(c) If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

As added by Acts 1981, P.L.308, SEC.7. Amended by P.L.5-1989, SEC.98.

IC 36-4-3-16

Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter;

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; or

(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a

jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality that have topography, patterns of land use, and population density similar to the annexed territory. However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the plaintiff must establish that the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the city regardless of similar topography, patterns of land use, or population density.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.1-1991, SEC.208; P.L.255-1997(ss), SEC.14.

#### IC 36-4-3-17

Sec. 17. (a) The owner or owners of:

(1) fifty-one percent (51%) or more in number of the lots in an addition or subdivision to a municipality; or

(2) contiguous territory within the corporate boundaries of a municipality, constituting not less than one (1) entire block, if platted, and not less than one (1) acre, if not platted; may file a petition for disannexation if any of the boundaries of the

addition, subdivision, or contiguous territory forms part of the corporate boundary of the municipality. The petition must be filed with the works board of the municipality and must include a plat of the territory sought to be disannexed. Notice of the petition must be given in the manner prescribed by IC 5-3-1.

(b) A remonstrance against the granting of the petition may be filed by:

(1) the owner of a lot in the subdivision or addition; or

(2) the owner of territory adjoining the territory sought to be disannexed.

(c) The works board shall conduct a hearing and make a just and equitable order on the petition. In conducting the hearing, the works board may:

(1) subpoena witnesses;

(2) punish contempt;

(3) adjourn the hearing from time to time;

(4) make orders concerning streets and alleys, including their vacation; and

(5) award damages.

As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-18

Sec. 18. (a) An order under section 17 of this chapter may be appealed to the circuit court for the county in which any part of the affected territory is located. If an appeal is brought, the matters determined at the original hearing shall be tried de novo, and the circuit court's order may be appealed in the same manner as other civil actions are tried and appealed. The municipality involved in the disannexation may, by its attorney, appear and defend its interests in the proceeding.

(b) The appellant or appellants in the circuit court shall give to the clerk of the municipality a bond:

(1) with a solvent, freehold surety who is a resident of the county in which the territory is located;

(2) conditioned on the due prosecution of the appeal and the payment of all costs accrued by or to accrue against the appellant or appellants; and

(3) in a sum considered adequate by the clerk.

If he approves the bond, the clerk shall immediately make a transcript of all proceedings in the cause and certify it, together with all papers in the cause, to the clerk of the court in which the appeal is filed.

(c) On an appeal under this section, a court may make orders concerning streets and

alleys, including their vacation, and award damages.  
As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-19

Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which

the disannexed lots or lands lie and to the state certifying official designated under IC 3-6-4.2-11. The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to:

(1) the auditor of each county in which the lands or lots affected lie, on receipt of one dollar (\$1) for the making and certifying of the transcript from the petitioners for the disannexation;

(2) the state certifying official designated under IC 3-6-4.2-11; and

(3) the circuit court clerk, and if a board of registration exists, the board of each county in which the lands or lots affected are located.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

(1) The county highway department.

(2) The county surveyor.

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

(4) Any state agency that has requested copies of disannexations filed with the county auditor under this section.

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the filing of the order with the circuit court clerk and the state certifying official.

(e) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.218-1986, SEC.1; P.L.5-1989, SEC.99; P.L.7-1990, SEC.56; P.L.3-1997, SEC.455.

#### IC 36-4-3-20

Sec. 20. After the termination of a disannexation proceeding under this chapter, a subsequent disannexation proceeding affecting the same property and asking for the same relief may not be initiated for a period of two (2) years.

As added by Acts 1980, P.L.212, SEC.3.

#### IC 36-4-3-21

Sec. 21. (a) In lieu of annexing contiguous territory or in cases not involving annexation, the executive and the proper administrative agency of a municipality, with the consent of the municipal legislative body, may enter into contracts with the owners or lessees of designated property in the vicinity of the municipality, providing for the payment or contribution of

money to the municipality for municipal or public purposes specified in the contract. The payments under the contract may be:

- (1) related to or in consideration of municipal services or benefits received or to be received by the property owners or lessees;
- (2) in lieu of taxes that might be levied on annexation of the designated property; or
- (3) wholly unrelated to municipal services or benefits to or potential tax impositions on the designated property.

(b) Any other political subdivision that has taxing power in respect to the designated property or is entitled to share in the property taxes assessed and collected by the municipality may:

- (1) join in a contract under this section; or
- (2) enter into a separate agreement with the municipality, providing for the division and distribution of contract payments made under this section and for the receipt of a share of those payments by the municipal authority.

(c) A contract under this section may be entered into for the term agreed to by the municipality and the property owners or lessees, but that term may not exceed:

- (1) fifteen (15) continuous years under one (1) contract if the municipality is a consolidated or second class city; or
- (2) four (4) continuous years under one (1) contract if the municipality is not a consolidated or second class city.

(d) A contract under this section continues in effect for its full term unless it is:

- (1) induced by fraud of the property owners or lessees;
- (2) grossly and corruptly improvident on the part of the municipality; or
- (3) terminated or reduced in duration by agreement of the municipality and the property owners or lessees.

(e) A contract under this section may provide that during its effective term, the designated property of the contracting owners or lessees is not subject to annexation by the municipality.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.162.

#### IC 36-4-3-22

Sec. 22. (a) The clerk of the municipality shall:

(1) file each annexation ordinance against which a remonstrance or appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:

- (A) the county auditor of each county in which the annexed territory is located;
- (B) the circuit court clerk, and if a board of registration exists,

the board of each county in which the annexed territory is located; and

- (C) the state certifying official designated under IC 3-6-4.2-11; and

(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 or 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.
- (2) The county surveyor.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) Any state agency that has requested copies of annexations filed with the county auditor under this section.

(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.

(f) The county auditor 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.

As added by P.L.218-1986, SEC.2. Amended by P.L.301-1989, SEC.1; P.L.5-1989, SEC.100; P.L.1-1990, SEC.358; P.L.7-1990, SEC.57; P.L.3-1997, SEC.456.



342 North Senate Avenue  
Indianapolis, IN 46204-1708  
ph. 317/261-3000  
fax 317/261-3050  
jkrauss@iupui.edu

