

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

COMMON CAUSE INDIANA, et al.,)	
)	
Plaintiff,)	
v.)	23-CV-1022-JRS-TAB
)	
CITY OF ANDERSON COMMON)	
COUNCIL, and the MADISON COUNTY)	
BOARD OF ELECTIONS,)	
)	
Defendants.)	

**DEFENDANT, CITY OF ANDERSON COMMON COUNCIL’S,
MOTION TO STAY PROCEEDINGS**

Defendant, City of Anderson Common Council (“Anderson Council”), through its attorneys, Henderson Parks, LLC and Laduzinsky & Associates, P.C., requests that this Honorable Court enter an order staying these proceedings to allow Defendant, Anderson Council, to finalize, take public comment on and vote upon a map redistricting the City of Anderson in accordance with Indiana Code Sections I.C. §36-4-6-3(g)(1) and I.C. §3-5-10-7 (a)(1), as amended. In support of its motion, Defendant, Anderson Council, states as follows:

1. This is a Voting Rights Act case brought pursuant to Section 2 of the Voting Rights Act of 1965.
2. Plaintiffs’ lawsuit was initiated on June 13, 2023, alleging that the December 30, 2022 decision by Defendant, Anderson Council, to not redistrict caused the districts to be malapportioned.
3. On September 20, 2023, Plaintiffs moved for a Preliminary Injunction, seeking, *inter alia*, injunctive relief that would require the district boundaries for the City of Anderson to be redrawn, to compel the City of Anderson to convene a special election in 2024 that would

require all council members elected in the six (6) districts in the 2023 General Election to run for election *again*, causing their 4-year terms to be truncated. Plaintiffs' lawsuit does not seek relief related to the council members elected at large.

4. Currently pending is Plaintiff's Motion for Partial Summary Judgment [Dkt. 46] which was filed on January 22, 2024 before the enactment of an amendment to I.C. §3-5-10-7 (a)(1). A briefing schedule is currently set with respect to Plaintiff's Motion for Partial Summary Judgment. [Dkt. 61]

5. The Indiana General Assembly has passed legislation, Indiana Senate Bill 135 to extend the deadline – **to July 1, 2025** – by which Second Cities, including the City of Anderson, can redraw their district boundaries according to the 2020 Census. On March 11, 2024, Indiana Senate Bill 135 was signed into law by Indiana Governor Eric Holcomb. A true and correct copy of enacted Indiana Senate Bill 135 is attached as **Exhibit A**.

6. As a result of the enactment of Senate Bill 135, this lawsuit will no longer present any Article III case or controversy for lack of justiciability because there will be no ripe controversy.

7. Defendant, Anderson Council, is reviewing proposed maps for its six (6) districts for the purpose of redistricting said districts.

8. Defendant, Anderson Council, will present said maps to the public for comment, discussion and potential revision and Defendant, Anderson Council, and will discuss and vote on said redistricting maps in accordance with I.C. §3-5-10-7 (a)(1), as amended.

9. Where, as here, there is a material change in circumstances concerning legislative boundaries that will be -- but have yet to be -- actually redrawn, the proper procedural mechanism is for the Court to enter a stay of the proceedings instead of dismissing the action on the basis of

“mootness” or “ripeness.” *Arrington v. Elections Bd. of the State of Wisconsin*, 173 F. Supp.2d 856, 860-61 (E.D. Wis. 2001) (“Simply because an election law has become unconstitutional does not necessarily mean a federal court should step in to rewrite it. Indeed the Supreme Court has been very clear in stating that ‘absent some evidence that [the] state branches will fail timely to perform [their] duty to enact redistricting legislation, a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it. Thus, this court should stay its proceedings until some reasonable deadline.’”), *citing Growe v. Emison*, 507 U.S. 25, 34 (1993).

10. Staying this proceeding until the Defendant, Anderson Council, votes to approve a map redistricting its six (6) districts in accordance with *Arrington* and *Growe* would allow the Defendant, Anderson Council, the legislative body empowered to adopt such maps, to address the issues raised by Plaintiffs in this matter which seeks judicial intervention prior to July 1, 2025, the deadline set by the Indiana legislature in Senate Bill 135.

11. A copy of the proposed Order in relation to this Motion is attached as **Exhibit B**.

WHEREFORE, for the reasons set forth above, Defendant, Anderson Council, respectfully requests this Court enter an Order: staying these proceedings until July 10, 2025 for a status hearing on Defendant, Anderson Council's, redistricting of its six (6) districts and requiring the Parties to notify the Court within 14 days of Defendant, Anderson Council's, adoption of maps redistricting the City of Anderson if such action occurs before July 1, 2025.

Dated: April 22, 2024

Respectfully Submitted,

CITY OF ANDERSON COMMON COUNCIL

By: /s/ Devlin Joseph Schoop
One of its Attorneys

By: /s/ Steven M. Laduzinsky
One of its Attorneys

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CERTIFICATE OF SERVICE

The undersigned certifies that on April 22, 2024, the foregoing **DEFENDANT CITY OF ANDERSON COMMON COUNCIL'S MOTION TO STAY PROCEEDINGS** was electronically filed with the United States District Court for the Southern District of Indiana by filing through the Court's CM/ECF system, which served a copy of the foregoing upon all counsel of record.

By: Steven M. Laduzinsky

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Exhibit A



Reprinted
January 30, 2024

SENATE BILL No. 135

DIGEST OF SB 135 (Updated January 29, 2024 3:07 pm - DI 149)

Citations Affected: IC 3-5.

Synopsis: Redistricting deadline. Requires certain redistricting authorities to redistrict or recertify election districts before June 30, 2025, if the election district does not have an office on the ballot during the 2024 general election. Requires certain redistricting authorities to redistrict or recertify election districts after January 1, 2025 and before June 30, 2025, if the election district does have an office on the ballot during the 2024 general election. Assesses a penalty if a redistricting authority fails to redistrict or recertify election districts. Makes conforming changes.

Effective: Upon passage.

Gaskill, Crane

January 8, 2024, read first time and referred to Committee on Elections.
January 22, 2024, reported favorably — Do Pass.
January 29, 2024, read second time, amended, ordered engrossed.

SB 135—LS 6278/DI 149



Reprinted
January 30, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in *this style type*, and deletions will appear in *this style type*.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in *this style type*. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 135

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-10-7, AS AMENDED BY P.L.227-2023,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7. (a) Subject to ~~section~~ **sections 7.1 and 8** of
4 this chapter, a redistricting authority shall redistrict election districts at
5 the following times:
6 (1) If the census event is a federal decennial census, the
7 following:
8 (A) For a county executive or county fiscal body, only during
9 the first year after the federal decennial census is conducted.
10 (B) For a school corporation, only during the first year after
11 the federal decennial census is conducted.
12 (C) For a municipality that conducts its municipal elections in
13 an odd-numbered year, only during the second year after the
14 federal decennial census is conducted.
15 (D) For a municipality that conducts its municipal elections in:
16 (i) an even-numbered year; or
17 (ii) both an even-numbered year and an odd-numbered year;

SB 135—LS 6278/DI 149



- 1 only during the first year after the federal decennial census is
2 conducted.
3 (E) For the legislative body of a township in a county having
4 a consolidated city, only during the first year after the federal
5 decennial census is conducted.
6 (2) For a census event other than a federal decennial census, only
7 during the first year after the year the census event becomes
8 effective with respect to the political subdivision, as provided in
9 IC 1-1-3.5-3.
10 (3) Whenever a county adopts an order declaring a county
11 boundary to be changed under IC 36-2-1-2 that affects the
12 boundaries of the political subdivision.
13 (4) Whenever required to assign annexed territory to a district,
14 subject to the provisions of IC 36-4-3.
15 (5) Whenever the boundary of the political subdivision is
16 changed.
17 (6) As provided in the order of a court that has found the current
18 redistricting plan unconstitutional or otherwise unlawful.
19 (b) **Except as provided in section 7.1 of this chapter, a**
20 **redistricting authority may not redistrict at a time other than is provided**
21 **in subsection (a).**
22 SECTION 2. IC 3-5-10-7.1 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
24 UPON PASSAGE]: **Sec. 7.1. (a) A redistricting authority described**
25 **in section 7(a)(1) of this chapter that did not redistrict election**
26 **districts or did not recertify existing districts following the 2020**
27 **decennial census, shall:**
28 (1) **after January 1, 2025, and before June 30, 2025, redistrict**
29 **election districts for an office that is on the ballot during the**
30 **2024 general election; or**
31 (2) **before June 30, 2025:**
32 (A) **recertify existing districts under section 8 of this**
33 **chapter; or**
34 (B) **redistrict election districts for an office that is not on**
35 **the ballot during the 2024 general election.**
36 (b) **Redistricting or recertifying under this section must be**
37 **based on the 2020 decennial census.**
38 (c) **A member of a redistricting authority described in**
39 **subsection (a) that fails to:**
40 (1) **redistrict election districts; or**
41 (2) **recertify existing districts under section 8 of this chapter;**
42 **before June 30, 2025, shall not be entitled to receive payment of**



1 **any salary or fees, as fixed by law, until the redistricting authority**
2 **complies with subsection (a).**
3 **(d) This section expires July 1, 2025.**
4 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 135, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 135 as introduced.)

GASKILL, Chairperson

Committee Vote: Yeas 7, Nays 0

SENATE MOTION

Madam President: I move that Senate Bill 135 be amended to read as follows:

Page 1, line 3, delete "subsection (c) and".

Page 1, line 3, strike "section" and insert "sections 7.1 and".

Page 2, line 19, delete "subsection (c)," and insert "**section 7.1 of this chapter,**".

Page 2, delete lines 21 through 42, begin a new paragraph and insert:

"SECTION 2. IC 3-5-10-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.1. (a) A redistricting authority described in section 7(a)(1) of this chapter that did not redistrict election districts or did not recertify existing districts following the 2020 decennial census, shall:**

(1) after January 1, 2025, and before June 30, 2025, redistrict election districts for an office that is on the ballot during the 2024 general election; or

(2) before June 30, 2025:

(A) recertify existing districts under section 8 of this chapter; or

(B) redistrict election districts for an office that is not on the ballot during the 2024 general election.

(b) Redistricting or recertifying under this section must be based on the 2020 decennial census.

(c) A member of a redistricting authority described in subsection (a) that fails to:

(1) redistrict election districts; or

SB 135—LS 6278/DI 149



(2) recertify existing districts under section 8 of this chapter; before June 30, 2025, shall not be entitled to receive payment of any salary or fees, as fixed by law, until the redistricting authority complies with subsection (a).

(d) This section expires July 1, 2025.

SECTION 3. An emergency is declared for this act."

Delete page 3.

Renumber all SECTIONS consecutively.

(Reference is to SB 135 as printed January 23, 2024.)

GASKILL



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Exhibit B

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ORDER

THIS MATTER coming to be heard on Defendant, City of Anderson Common Council’s, Motion to Stay Proceedings based on Indiana’s enactment of Senate Bill 135 amending Indiana Code I.C. §3-5-10-7(a)(1):

IT IS HEREBY ORDERED:

1. Defendant, City of Anderson Common Council’s, Motion to Stay Proceedings is GRANTED;
2. This matter is hereby stayed until and set for status hearing on July 10, 2025 at _____ a.m.; and
3. If the Defendant, City of Anderson Common Council, votes to adopt maps; and redistricting one or more of the six (6) districts before July 1, 2025, the Parties shall notify the Court within 14 day after such action.

Order prepared by:
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ENTERED:

Judge

Judge’s No.