

**Superseded 5/12/2015**

**10-2-413 Feasibility consultant -- Feasibility study -- Modifications to feasibility study.**

- (1)
  - (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:
    - (i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or
    - (ii) the commission's creation, if the commission is created after the filing of a protest.
  - (b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:
    - (i) is undeveloped; and
    - (ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.
- (2) The commission shall require the feasibility consultant to:
  - (a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;
  - (b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and
  - (c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.
- (3)
  - (a) Subject to Subsection (4), the feasibility study shall consider:
    - (i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
    - (ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
    - (iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;
    - (iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;
    - (v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, local districts, special service districts, school districts, and other governmental entities;
    - (vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;
    - (vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;
    - (viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;
    - (ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

- (x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;
  - (xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;
  - (xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;
  - (xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;
  - (xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and
  - (xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.
- (b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.
- (c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.
- (4)
- (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:
    - (i) the size of the area proposed for annexation;
    - (ii) the size of the proposed annexing municipality;
    - (iii) the extent to which the area proposed for annexation is developed;
    - (iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and
    - (v) the number and type of protests filed against the proposed annexation.
  - (b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).
- (5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.
- (6)
- (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.
  - (b)

- (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(a)(ii), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.
- (ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.