

**MUNICIPALITY ANNEXATION POWER**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lowell A. Nelson**

AN ACT RELATING TO CITIES AND TOWNS; MODIFYING ANNEXATION  
REQUIREMENTS; AND REQUIRING AN AREA PROPOSED FOR ANNEXATION TO BE  
LOCATED WITHIN THE SAME COUNTY AS THE ANNEXING MUNICIPALITY **EXCEPT IN  
SPECIFIED CIRCUMSTANCES** .

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**10-2-402**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

**10-2-418**, as last amended by Chapter 337, Laws of Utah 1998

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-2-402** is amended to read:

**10-2-402. Annexation -- Limitations.**

(1) ~~[(a) A contiguous,]~~ An unincorporated area ~~[that is contiguous to a municipality]~~ may  
be annexed to ~~[the]~~ a municipality as provided in this part~~[-]~~ if:

~~[(b) An unincorporated area may not be annexed to a municipality unless:]~~

~~[(i) it]~~ (a) the area is a contiguous area **that** ;

**(b) (i) THE AREA** is entirely within the same county that contains  
a majority of the land area of the municipality; **OR**

**(ii) THE MUNICIPALITY IS THE ONLY MUNICIPALITY PROXIMATELY AVAILABLE AND**  
**CAPABLE OF PROVIDING MUNICIPAL TYPE SERVICES TO THE AREA;** **AND**

~~[(ii) it]~~ **(b) (c)** the area is contiguous to the municipality; and

~~[(iii)]~~ **(d)** except as provided in Subsection 10-2-418(1)(b), annexation will not  
leave or  
create an unincorporated island or peninsula.

(2) Except as provided in Section 10-2-418, a municipality may not annex an  
unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

Section 2. Section **10-2-418** is amended to read:

**10-2-418. Annexation of an island or peninsula without a petition -- Notice --  
Hearing.**

28 (1) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an  
29 unincorporated area under this section without an annexation petition if:

- 30 (i) the annexation is of an island within or a peninsula contiguous to the municipality;
  - 31 (ii) the majority of the area consists of residential or commercial development;
  - 32 (iii) the area proposed for annexation requires the delivery of municipal-type services; and
  - 33 (iv) the municipality has provided most or all of the municipal-type services to the area
- 34 for more than one year.

35 (b) Notwithstanding Subsection 10-2-402(1)~~(b)(iii)~~ ~~h~~ ~~(c)~~ ~~(d)~~ ~~h~~ , a municipality may  
35a annex a

36 portion of an island or peninsula under this section, leaving unincorporated the remainder of the  
37 unincorporated island or peninsula, if, in adopting the resolution under Subsection (2)(a)(i), the  
38 municipal legislative body determines that not annexing the entire unincorporated island or  
39 peninsula is in the municipality's best interest.

40 (2) (a) The municipal legislative body of a municipality intending to annex an area under  
41 this section shall:

42 (i) adopt a resolution indicating the municipal legislative body's intent to annex the area,  
43 describing the area proposed to be annexed;

44 (ii) (A) publish notice at least once a week for three successive weeks in a newspaper of  
45 general circulation within the municipality and the area proposed for annexation; or

46 (B) if there is no newspaper of general circulation in the areas described in Subsection  
47 (2)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most  
48 likely to give notice to the residents of those areas;

49 (iii) send written notice to the board of each special district whose boundaries contain  
50 some or all of the area proposed for annexation and to the legislative body of the county in which  
51 the area proposed for annexation is located; and

52 (iv) hold a public hearing on the proposed annexation no earlier than 60 days after the  
53 adoption of the resolution under Subsection (2)(a)(i).

54 (b) The notice under Subsections (2)(a)(ii) and (iii) shall:

55 (i) state that the municipal legislative body has adopted a resolution indicating its intent  
56 to annex the area proposed for annexation;

57 (ii) state the date, time, and place of the public hearing under Subsection (2)(a)(iv);

58 (iii) describe the area proposed for annexation; and

59 (iv) state in conspicuous and plain terms that the municipal legislative body will annex the  
60 area unless, at or before the public hearing under Subsection (2)(a)(iv), written protests to the  
61 annexation are filed by the owners of private real property that:

62 (A) is located within the area proposed for annexation;

63 (B) covers a majority of the total private land area within the area proposed for annexation;

64 and

65 (C) is equal in value to at least 1/3 the value of all private real property within the area  
66 proposed for annexation.

67 (c) The first publication of the notice required under Subsection (2)(a)(ii)(A) shall be  
68 within 14 days of the municipal legislative body's adoption of a resolution under Subsection  
69 (2)(a)(i).

70 (3) Upon conclusion of the public hearing under Subsection (2)(a)(iv), the municipal  
71 legislative body may adopt an ordinance annexing the area proposed for annexation under this  
72 section unless, at or before the hearing, written protests to the annexation have been filed with the  
73 city recorder or town clerk, as the case may be, by the owners of private real property that:

74 (a) is located within the area proposed for annexation;

75 (b) covers a majority of the total private land area within the area proposed for annexation;

76 and

77 (c) is equal in value to at least 1/3 the value of all private real property within the area  
78 proposed for annexation.

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**Legislative Review Note**  
**as of 12-29-98 2:09 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**