

**MUNICIPAL ANNEXATION IN COUNTIES OF
THE FIRST CLASS**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO CITIES AND TOWNS; MODIFYING THE RESTRICTIONS ON THE CONTENTS OF A REQUEST FOR FEASIBILITY STUDY AND OF AN ANNEXATION PETITION; MODIFYING MUNICIPAL ANNEXATION PROVISIONS; ALLOWING MUNICIPAL ANNEXATIONS IN FIRST-CLASS COUNTIES BY AGREEMENT WITH THE COUNTY, SUBJECT TO VOTER APPROVAL; PROVIDING A PROCESS FOR AN ANNEXATION BY AGREEMENT; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

10-2-103, as last amended by Chapter 13, Laws of Utah 1998

10-2-402, as repealed and reenacted by Chapter 389, Laws of Utah 1997

10-2-403, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

17B-2-204, as enacted by Chapter 368, Laws of Utah 1998

ENACTS:

10-2-418.5, Utah Code Annotated 1953

10-2-418.6, Utah Code Annotated 1953

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

Section 1. Section **10-2-103** is amended to read:

10-2-103. Request for feasibility study -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the clerk of the county in which the area is located.

(2) Each request under Subsection (1) shall:

(a) be signed by the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is equal in value to at least 7% of the value of all private real property within the area;

(b) indicate the typed or printed name and current residence address of each owner signing the request;

(c) describe the contiguous area proposed to be incorporated as a city;

(d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(f) request the county legislative body to commission a study to determine the feasibility of incorporating the area as a city.

(3) A request for a feasibility study under this section may not describe an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2-109(3) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2-111; or

(b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.

(4) A request under this section may not describe an area that includes some or all of an area proposed for annexation:

(a) in an annexation petition under Section 10-2-403 that:

[(a)] (i) was filed before the filing of the request; and

[(b)] (ii) is still pending on the date the request is filed[-]; or

(b) in an agreement between the county and the proposed annexing municipality under Subsection 10-2-418.5(2)(a)(i) unless the proposed annexation is rejected by voters at an election under Subsection 10-2-418.5(2)(a)(ii).

(5) (a) At the time of filing the request for a feasibility study with the county clerk, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning

commission of each township in which any part of the area proposed for incorporation is located.

(b) (i) Except as provided in Subsection (5)(b)(ii), the sponsors of each request for a feasibility study filed under Subsection (1) before July 17, 1997, shall, no later than July 27, 1997, deliver or mail a copy of the request to the planning commission of each township in which any part of the area proposed for incorporation is located.

(ii) Subsection (5)(b)(i) does not apply if the feasibility consultant has completed the feasibility study before July 17, 1997.

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

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

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

(i) it is a contiguous area;

(ii) it is contiguous to the municipality; and

(iii) 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] Sections 10-2-418 and 10-2-418.5, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

Section 3. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements.

(1) Except as provided in [Section] Sections 10-2-418 and 10-2-418.5, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the private land area within the area proposed for annexation; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by an accurate plat or map, prepared by a licensed surveyor, of the area proposed for annexation; and

(d) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(3) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality:

(a) in a previously filed petition that has not been denied, rejected, or granted; or

(b) in an agreement between the county and the proposed annexing municipality under Subsection 10-2-418.5(2)(a)(i) unless the proposed annexation is rejected by voters at an election under Subsection 10-2-418.5(2)(a)(ii).

(4) A petition under Subsection (1) may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2-103 or a petition under Section 10-2-125 if:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, a petition under Section 10-2-109 based on that request, or a petition under Section 10-2-125 is still pending on the date the annexation petition is filed.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities:

(a) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(b) to facilitate the consolidation of overlapping functions of local government;

(c) to promote the efficient delivery of services; and

(d) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to:

(a) the clerk of the county in which the area proposed for annexation is located; and

(b) the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

Section 4. Section **10-2-418.5** is enacted to read:

10-2-418.5. Annexation by agreement -- Voter approval required -- No protest or boundary commission review -- Multiple annexations in single agreement.

(1) For purposes of this section, "unincorporated" does not include an area of the county that is the subject of a pending proceeding to incorporate as a municipality under:

(a) a request for feasibility study under Section 10-2-103 that has been certified under Section 10-2-105; or

(b) an incorporation petition under Section 10-2-109 that has been certified under Section 10-2-110.

(2) (a) Notwithstanding Subsection 10-2-402(2), a municipality in a county of the first class may, by ordinance, annex an unincorporated area within a county of the first class under this section without an annexation petition if, prior to the adoption of the annexation ordinance:

(i) the county in which the area is located and the annexing municipality enter into an agreement approving the annexation; and

(ii) the annexation is approved by voters of the area proposed to be annexed at an election held after the adoption of the agreement.

(b) In the process of negotiating an agreement under Subsection (2)(a)(i), the county and proposed annexing municipality shall consider and discuss:

(i) the proposed annexation's effect on county employees and the possibility of transferring county employees to the municipality as the county's need for personnel to provide services diminishes and as the municipality's need increases; and

(ii) the proposed annexation's impact on independent special districts that provide municipal-type services to the area proposed to be annexed.

(c) Subsection 10-2-403(5) applies to each agreement under Subsection (2)(a)(i).

(3) An annexation under this section is not subject to protest under Section 10-2-407 or to boundary commission review.

(4) Each election under Subsection (2)(a)(ii) shall be held by the county legislative body at a special election date under Section 20A-1-204.

(5) Multiple annexations may be approved by a county and multiple municipalities within the county in a single agreement under Subsection (2)(a)(i).

(6) All expenses of an election under Subsection (2)(a)(ii) shall be shared equally between

the county in which the area proposed to be annexed is located and the proposed annexing municipality.

(7) An agreement under Subsection (2)(a)(i):

(a) may include provisions for:

(i) the orderly transfer of responsibility after annexation for providing municipal-type services from the county to the annexing municipality;

(ii) the orderly transfer from the county to the annexing municipality of:

(A) with or without consideration, real and personal property and facilities; and

(B) personnel; and

(iii) any financial or administrative arrangements between the county and municipality to facilitate the transfer of the area being annexed from the county to the municipality; and

(b) shall identify the municipal-type services in the area proposed to be annexed that will continue to be provided by existing special districts.

Section 5. Section **10-2-418.6** is enacted to read:

10-2-418.6. Notice to owner of more than 1% of property -- Exclusion of property from proposed annexation.

(1) Within seven calendar days of the date on which an agreement to annex is entered into under Section 10-2-418.5, the clerk of the county that entered into the agreement shall notify in writing of the proposed annexation each owner of real property owning more than 1% of the assessed value of all property in the proposed annexation boundaries.

(2) (a) A property owner within the boundaries of a proposed annexation owning more than 1% of the assessed value of all property in the proposed annexation boundaries, may exclude all or part of the property owner's property from the proposed annexation by filing a Notice of Exclusion within ten calendar days after receiving the clerk's notice under Subsection (1).

(b) The county legislative body and the legislative body of the proposed annexing municipality shall exclude the property identified in the Notice of Exclusion from the proposed annexation only if:

(i) the property is currently nonurban;

(ii) the property does not or will not require municipal provision of municipal-type services including:

(A) culinary or irrigation water;

(B) sewage collection or treatment;

(C) storm drainage or flood control;

(D) recreational facilities or parks;

(E) electric generation or transportation;

(F) construction or maintenance of local streets and roads;

(G) curb and gutter or sidewalk maintenance;

(H) garbage and refuse collection; and

(I) street lighting; and

(iii) exclusion will not leave an unincorporated island in the proposed annexing municipality.

Section 6. Section **17B-2-204** is amended to read:

17B-2-204. Request for service required before filing of petition -- Request requirements.

(1) A petition may not be filed until after:

(a) a request has been filed with:

(i) the clerk of each county in whose unincorporated area any part of the proposed local district is located; and

(ii) the clerk or recorder of each municipality in which any part of the proposed local district is located; and

(b) each county and municipality with which a request under Subsection (1)(a) is filed:

(i) has adopted a resolution under Subsection 17B-2-212(1) indicating whether it will provide the requested service; or

(ii) is considered to have declined to provide the requested service under Subsection 17B-2-212(2) or (3).

(2) Each request under Subsection (1)(a) shall:

(a) ask the county or municipality to provide the service proposed to be provided by the proposed local district within the applicable area; and

(b) be signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 10% of the total private land area within the applicable area; and

(C) is equal in value to at least 7% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.

(3) For purposes of Subsections (1) and (2), an area outside a municipality shall be considered to be part of that municipality if the area is proposed to be annexed to [a] the municipality in:

(a) a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition [shall be considered to be part of that municipality]; or

(b) an agreement under Subsection 10-2-418.5(2)(a)(i):

(i) that was entered into no more than nine months before the filing of a petition; and

(ii) whose proposed annexation has not been the subject of an election under Subsection 10-2-418.5(2)(a)(ii).

Legislative Review Note

as of 2-10-99 8:05 AM

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

Office of Legislative Research and General Counsel