

ANNEXATION OF UNINCORPORATED AREAS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

AN ACT RELATING TO THE UTAH MUNICIPAL CODE; REQUIRING A CITY TO APPROVE AN ANNEXATION UNDER CERTAIN CIRCUMSTANCES; EXPRESSING LEGISLATIVE INTENT; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

10-2-404, as last amended by Chapter 13, Laws of Utah 1998

10-2-405, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

10-2-407, as last amended by Chapter 13, Laws of Utah 1998

10-2-408, as last amended by Chapters 85 and 337, Laws of Utah 1998

This act enacts uncodified material.

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

Section 1. Section **10-2-404** is amended to read:

10-2-404. Certain annexation petitions invalid -- Certain petitions considered filed on May 5, 1997 -- Signatures on invalid petitions -- Special requirements for certain petitions.

(1) Except as provided in Subsection (3), an annexation petition filed before and still pending on May 5, 1997, that fails to comply with the requirements of Subsections 10-2-403(2), (3), and (4) is invalid.

(2) Each annexation petition filed before and still pending on May 5, 1997, that complies with the requirements of Subsections 10-2-403(2), (3), and (4) shall:

(a) except as provided in Subsection (2)(b), be considered to have been filed on May 5, 1997, and shall be processed according to the provisions of this part; and

(b) notwithstanding Subsection (2)(a), be given processing priority according to its actual filing date.

(3) Notwithstanding Subsection (1), the signatures on an annexation petition that is invalid

because of Subsection (1) may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b).

(4) (a) Except as provided in Subsection (4)(c), the sponsors of each annexation petition filed under Section 10-2-403 on or after May 5, 1997, and before July 17, 1997, or considered filed on May 5, 1997, under Subsection (2)(a), shall, no later than July 27, 1997, deliver or mail a copy of the annexation petition to the planning commission of each township in which any part of the area proposed for annexation is located.

(b) Except as provided in Subsection (4)(c), if an annexation petition described in Subsection (4)(a) is accepted by a municipal legislative body under Subsection 10-2-405(1)(a)[~~(ii)~~](i), the municipal legislative body may not grant the petition for annexation until after expiration of the deadline for filing a protest under Subsection 10-2-407(2)(a)(i)(A), (2)(e), or (2)(f).

(c) Subsections (4)(a) and (b) do not apply if the time for filing a protest under Subsection 10-2-407(2)(a)(i)(A) or (2)(e), excluding an extension under Subsection 10-2-407(2)(f), expires before July 17, 1997.

Section 2. Section **10-2-405** is amended to read:

10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.

(1) (a) (i) A municipal legislative body may:

~~[(i)]~~ (A) except as provided in Subsection (1)(b), deny a petition filed under Section 10-2-403; or

~~[(ii)]~~ (B) accept the petition for further consideration under this part.

~~[(b)]~~ (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the clerk of the county in which the area proposed for annexation is located, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(b) A municipal legislative body may not deny a petition filed under Section 10-2-403 if:

(i) the petition contains the signatures of the owners of private real property that:

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

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

(C) is equal in value to at least 1/2 of the value of all private real property within the area proposed for annexation;

(ii) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality; and

(iii) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)~~(ii)~~(i)(B), the city recorder or town clerk, as the case may be, shall, within 30 days of that acceptance:

(a) with the assistance of the municipal attorney and of the clerk, surveyor, and recorder of the county in which the area proposed for annexation is located, determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4); and

(b) (i) if the city recorder or town clerk determines that the petition meets those requirements,

certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a newly filed

petition under Subsection 10-2-403(1).

(4) Each county clerk, surveyor, and recorder shall cooperate with and assist a city recorder or town clerk in the determination under Subsection (2)(a).

Section 3. Section **10-2-407** is amended to read:

10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest -- Township planning commission recommendation.

(1) (a) A protest to an annexation petition under Section 10-2-403 may be filed by:

(i) the legislative body of the county in which the area proposed for annexation is located;

(ii) the board of a special district whose boundaries include part or all of the area proposed for annexation;

(iii) the legislative body of a municipality whose boundaries are within 1/2 mile of the area proposed for annexation; or

(iv) the owners of private real property that:

(A) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(B) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(C) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(b) (i) (A) Except as provided in Subsection (1)(b)(i)(B), a township planning commission may recommend to the legislative body of the county in which the township is located that the county legislative body file a protest against a proposed annexation under this part of an area located within the township.

(B) Subsection (1)(b)(i)(A) does not apply if the time for filing a protest under Subsection [~~10-2-407~~](2)(a)(i)(A) or (2)(e) expires before July 17, 1997.

(ii) (A) Except as provided in Subsection (1)(b)(ii)(B), the township planning commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the county legislative body within 30 days of the city recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)(b)(i).

(B) Notwithstanding Subsection (1)(b)(ii)(A), if the city recorder or town clerk's certification under Subsection 10-2-405(2)(b)(i) occurs before July 17, 1997, the township planning commission shall communicate its recommendation under Subsection [~~(2)~~] (1)(b)(i) in writing to the county legislative body on or before August 16, 1997, but no later than the deadline for filing a protest under Subsection (2)(a)(i)(A) or (2)(e), excluding an extension under Subsection (2)(f).

(C) At the time the recommendation is communicated to the county legislative body under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy of the recommendation to the legislative body of the proposed annexing municipality and to the contact sponsor.

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

(i) be filed:

(A) except as provided in Subsections (2)(e) and (f), no later than 60 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(b)(i); and

(B) (I) in a county that has already created a commission under Section 10-2-409, with the commission; or

(II) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located; and

(ii) state each reason for the protest of the annexation petition.

(b) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall immediately notify the county legislative body of the protest and shall deliver the protest to the boundary commission within five days of its creation under Subsection 10-2-409(1)(b).

(d) Each protest under Subsection (1)(a)(iv) shall, in addition to the requirements of Subsections (2)(a) and (b):

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

(ii) designate one of the signers of the protest as the contact person and state the mailing

address of the contact person.

(e) Notwithstanding Subsection (2)(a)(i)(A) and except as provided in Subsection (2)(f), each protest under Subsection (1) shall be filed no later than 40 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(b)(i) if the annexation petition 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.

(f) The deadline under Subsection (2)(a)(i)(A) or (2)(e) for the county legislative body to file a protest is extended by ten days if:

(i) the city recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)(b)(i) occurs before July 17, 1997; and

(ii) the time for filing a protest under Subsection (2)(a)(i)(A) or (2)(e) has not expired as of July 17, 1997.

(3) (a) (i) If a protest is filed under this section:

(A) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)(A) or (e) and except as provided in Subsection (3)(a)(iii), deny the annexation petition; or

(B) if the municipal legislative body does not deny the annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(ii) If a municipal legislative body denies an annexation petition under Subsection(3)(a)(i)(A), the municipal legislative body shall, within five days of the denial, send notice of the denial in writing to:

(A) the contact sponsor of the annexation petition;

(B) the commission;

(C) each entity that filed a protest; and

(D) if a protest was filed under Subsection (1)(a)(iv), the contact person.

(iii) A municipal legislative body may not deny an annexation petition if:

(A) the petition contains 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 1/2 of the value of all private real property within the area proposed for annexation;

(B) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality; and

(C) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality.

(b) (i) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is the subject of the annexation petition.

(ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal legislative body shall:

(A) hold a public hearing; and

(B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

(I) publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; or

(II) if there is no newspaper of general circulation in those areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas.

Section 4. Section **10-2-408** is amended to read:

10-2-408. Denial of or granting the annexation petition.

(1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:

~~[(1)]~~ (a) except as provided in Subsection (2), deny the annexation petition; or

~~[(2)]~~ (b) if the commission approves the annexation, grant the annexation petition and, by

ordinance and consistent with the commission's decision, annex the area that is the subject of the annexation petition.

(2) A municipal legislative body may not deny an annexation petition if:

(a) the petition contains 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 1/2 of the value of all private real property within the area proposed for annexation;

(b) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality; and

(c) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality.

Section 5. Legislative intent.

The Legislature acknowledges that annexations and related issues are of substantial concern in counties of the first class. It is the intent of the Legislature that this bill be viewed as merely the first step toward addressing and resolving those problems and understands that those affected by and interested in these issues will work together to resolve those issues this year.