

1 **MUNICIPAL INCORPORATION AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: R. Mont Evans**

5 AN ACT RELATING TO THE UTAH MUNICIPAL CODE; MODIFYING THE MUNICIPAL
6 INCORPORATION PROCESS; ALLOWING THE FILING OF A REQUEST FOR A
7 FEASIBILITY STUDY THAT INCLUDES AN AREA THAT IS THE SUBJECT OF AN
8 ANNEXATION PETITION, UNDER CERTAIN CIRCUMSTANCES; PROVIDING A
9 PROCEDURE IF THE ANNEXATION FAILS; MODIFYING THE REQUIREMENTS FOR
10 THE MAP FILED BY A NEW CITY; REPEALING OBSOLETE PROVISIONS; AND MAKING
11 TECHNICAL CHANGES.

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

13 AMENDS:

14 **10-2-103**, as last amended by Chapter 13, Laws of Utah 1998

15 **10-2-107**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

16 **10-2-121**, as last amended by Chapters 85 and 337, Laws of Utah 1998

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

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

19 **10-2-103. Request for feasibility study -- Requirements -- Limitations.**

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

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

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

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

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

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

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

28 the request;

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

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

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

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

36 (3) A request for a feasibility study under this section may not ~~[describe]~~ propose for
37 incorporation an area that includes some or all of an area that is the subject of a completed
38 feasibility study or supplemental feasibility study whose results comply with Subsection
39 10-2-109(3) unless:

40 (a) the proposed incorporation that is the subject of the completed feasibility study or
41 supplemental feasibility study has been defeated by the voters at an election under Section
42 10-2-111; or

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

46 (4) ~~[A]~~ (a) Except as provided in Subsection (4)(b), a request under this section may not
47 ~~[describe]~~ propose for incorporation an area that includes some or all of an area proposed for
48 annexation in an annexation petition under Section 10-2-403 that:

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

50 ~~[(b)]~~ (ii) is still pending on the date the request is filed.

51 (b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area
52 that includes some or all of an area proposed for annexation in an annexation petition described
53 in Subsection (4)(a) if:

54 (i) the proposed annexation area that is part of the area proposed for incorporation does
55 not exceed 20% of the area proposed for incorporation;

56 (ii) the request complies with Subsections (2) and (3) with respect to the area proposed for
57 incorporation excluding the proposed annexation area; and

58 (iii) excluding the area proposed for annexation from the area proposed for incorporation

59 would not cause the area proposed for incorporation to lose its contiguousness.

60 (c) Except as provided in Section 10-2-107, each request to which Subsection (4)(b)
 61 applies shall be considered as not proposing the incorporation of the area proposed for annexation.

62 (5) ~~(a)~~ At the time of filing the request for a feasibility study with the county clerk, the
 63 sponsors of the request shall mail or deliver a copy of the request to the chair of the planning
 64 commission of each township in which any part of the area proposed for incorporation is located.

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

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

71 Section 2. Section **10-2-107** is amended to read:

72 **10-2-107. Modified request for feasibility study -- Supplemental feasibility study.**

73 (1) (a) ~~(i) [If the results of the feasibility study do not meet the requirements of Subsection~~
 74 ~~10-2-109(3), the] The sponsors of ~~[the] a~~ request may~~[-, within 90 days of the feasibility~~
 75 ~~consultant's submission of the results of the study,] modify the request to alter the boundaries of~~
 76 ~~the proposed city and then refile the request, as modified, with the county clerk[-] if:~~~~

77 (A) the results of the feasibility study do not meet the requirements of Subsection
 78 10-2-109(3); or

79 (B) (I) the request meets the conditions of Subsection 10-2-103(4)(b);

80 (II) the annexation petition that proposed the annexation of an area that is part of the area
 81 proposed for incorporation has been denied; and

82 (III) an incorporation petition based on the request has not been filed.

83 (ii) (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90
 84 days after the feasibility consultant's submission of the results of the study.

85 (B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18
 86 months after the filing of the original request under Section 10-2-103.

87 (b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall
 88 comply with the requirements of Subsections 10-2-103(2), (3), (4), and (5)~~[(a)]~~.

89 (ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section

90 10-2-103 may be used toward fulfilling the signature requirement of Subsection 10-2-103(2)(a)
91 for the request as modified under Subsection (1)(a), unless the modified request proposes the
92 incorporation of an area that is more than 20% greater or smaller than the area described by the
93 original request in terms of:

- 94 (A) private land area; or
- 95 (B) value of private real property.

96 (2) Within 20 days [of] after the county clerk's receipt of the modified request, the county
97 clerk shall follow the same procedure for the modified request as provided under Subsection
98 10-2-105(1) for an original request.

99 (3) The timely filing of a modified request under Subsection (1) gives the modified request
100 the same processing priority under Subsection 10-2-105(2) as the original request.

101 (4) Within ten days [of] after the county legislative body's receipt of a certified modified
102 request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B)
103 that was filed after the completion of a feasibility study on the original request, the county
104 legislative body shall commission the feasibility consultant who conducted the feasibility study
105 to supplement the feasibility study to take into account the information in the modified request that
106 was not included in the original request.

107 (5) The county legislative body shall require the feasibility consultant to complete the
108 supplemental feasibility study and to submit written results of the supplemental study to the county
109 legislative body and to the contact sponsor no later than 30 days after the feasibility consultant is
110 commissioned to conduct the supplemental feasibility study.

111 (6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do
112 not meet the requirements of Subsection 10-2-109(3):

- 113 (i) the sponsors may file a further modified request as provided in Subsection (1); and
- 114 (ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection
115 (6)(a)(i).

116 (b) A further modified request under Subsection (6)(a) shall, for purposes of its processing
117 priority, be considered as an original request for a feasibility study under Section 10-2-103.

118 Section 3. Section **10-2-121** is amended to read:

119 **10-2-121. Division of municipal-type services revenues -- County may provide**
120 **startup funds -- Filing of plat or map -- Notice requirements.**

121 (1) The county in which an area incorporating under this part is located shall, until the date
122 of the city's incorporation under Section 10-2-122, continue:

123 (a) to levy and collect ad valorem property tax and other revenues from or pertaining to
124 the future city; and

125 (b) except as otherwise agreed by the county and the officers-elect of the city after the
126 filing of the notice under Subsection 10-2-120(1), to provide the same services to the future city
127 as the county provided before the commencement of the incorporation proceedings.

128 (2) The legislative body of the county in which a newly incorporated city is located shall
129 share pro rata with the new city, based on the date of incorporation, the taxes and service charges
130 or fees levied and collected by the county under Section 17-34-3 during the year of the new city's
131 incorporation if and to the extent that the new city provides, by itself or by contract, the same
132 services for which the county levied and collected the taxes and service charges or fees.

133 (3) (a) The legislative body of a county in which an area incorporating under this part is
134 located may appropriate county funds to:

135 (i) before incorporation but after a notice under Subsection 10-2-120(1) is filed, the
136 officers-elect of the future city to pay startup expenses of the future city; or

137 (ii) after incorporation, the new city.

138 (b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant,
139 a loan, or as an advance against future distributions under Subsection (2).

140 (4) (a) Within 30 days of incorporation, the legislative body of the new city shall record
141 with the recorder of the county in which the new city is located a plat or map, prepared by a
142 licensed surveyor and approved by the legislative body^[,] of the new city, the county recorder, and
143 county surveyor, showing the boundaries of the new city.

144 (b) The legislative body of the new city shall comply with the notice requirements of
145 Section 10-1-116.

Legislative Review Note
as of 2-3-00 4:04 PM

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

Office of Legislative Research and General Counsel