

**MUNICIPAL ANNEXATION PROVISIONS IN
FIRST CLASS COUNTIES**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Patrice M. Arent

LONG TITLE

General Description:

This bill modifies provisions of the Utah Municipal Code relating to municipal annexations in counties of the first class.

Highlighted Provisions:

This bill:

- ▶ requires proponents of a proposed annexation of an area in a county of the first class to file with the proposed annexing municipality a notice of intent to file an annexation petition;
- ▶ requires the county to mail notice of the proposed annexation to each owner of real property within the area proposed for annexation and within 300 feet of the area proposed for annexation for an annexation in a county of the first class;
- ▶ requires the person or persons who file a notice of intent to pay the cost of the county's mailing notice to property owners;
- ▶ requires each annexation petition proposing to annex an area in a first class county to include a notice to petition signers;
- ▶ authorizes a signer of an annexation petition in a first class county to withdraw the signer's signature; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-403, as last amended by Chapter 294, Laws of Utah 2003

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

Section 1. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

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

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether or not to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

Under Utah law, the elected officials of (state the name of the proposed annexing municipality) may have no choice but to grant the annexation petition if the county's property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of (state the name of the proposed annexing municipality) and if other statutory conditions are met.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed

S.B. 18

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annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

~~[(2)]~~ (3) Each petition under Subsection (1) shall:

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

(ii) when filed and if applicable, be accompanied by a written statement, signed by the petition sponsors, certifying that signatures on a petition that does not comply with the requirements of Subsection (3)(d) were gathered before the effective date of that subsection;

(b) contain the signatures of:

(i) the owners of private real property that:

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

(B) (I) subject to Subsection ~~[(2)]~~ (3)(b)(i)(B)(II), covers a majority of the private land area within the area proposed for annexation; and

(II) covers 100% of the private land area within the area proposed for annexation, if the

area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture Protection Area; and

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

(ii) if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owner of all the publicly owned real property;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection ~~[(6)]~~ (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• Under Utah law, the elected officials of (state the name of the proposed annexing municipality) may have no choice but to grant this annexation petition if the county's property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of (state the name of the proposed annexing municipality) and if other statutory conditions are met.

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you must do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

~~[(d)]~~ (e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of

the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

~~[(e)]~~ (f) 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)]~~ (4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

~~[(4)]~~ (5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class 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)]~~ (6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) 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;

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

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

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

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

~~[(6) Before filing a petition with the city recorder or town clerk, the petition sponsors shall send written notice to each affected entity of their intent to file a petition.]~~

(7) 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.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).