

Representative Gregory H. Hughes proposes the following substitute bill:

ANNEXATION AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill modifies provisions relating to municipal annexations.

Highlighted Provisions:

This bill:

▶ changes a time period before which a public hearing on a proposed annexation may not be held from 60 to 30 days after adoption of a resolution proposing the annexation;

▶ authorizes a municipality to adopt an annexation ordinance without allowing or considering protests if 75% of property owners have consented to the annexation;

▶ modifies the protest threshold for a certain type of annexation;

▶ eliminates the requirement of county legislative body approval for a certain type of annexation;

▶ modifies the criteria for a municipality to annex an unincorporated island or peninsula without an annexation petition;

H→ ▶ prohibits a municipality from annexing an area that is within the conical surface area of an airport operated or to be operated by another municipality without that other municipality's consent;

▶ prohibits a municipality that does not consent to an annexation by another municipality of an area that is within the conical surface area of the municipality's airport from denying an annexation petition proposing the annexation of that same area to



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21g that municipality; ←H

22 ▶ exempts certain annexations from provisions relating to the effective date of
23 annexations;

24 ▶ establishes an immediate conclusive presumption in favor of annexations that have
25 been finalized without allowing or considering protests; and

26 ▶ eliminates a requirement to provide affected entities with a notice of the enactment
27 of an annexation ordinance.

28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 **Ŝ→ [None] This bill provides an effective date. ←Ŝ**

32 **Utah Code Sections Affected:**

33 AMENDS:

33a **Ĥ→ 10-2-402, as last amended by Chapter 294, Laws of Utah 2003 ←Ĥ**

34 **10-2-418**, as last amended by Chapter 227, Laws of Utah 2003

35 **10-2-425**, as last amended by Chapter 233, Laws of Utah 2005

36

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

37a **Ĥ→ Section 1. Section 10-2-402 is amended to read:**

37b **10-2-402. Annexation -- Limitations.**

37c **(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed**
37d **to the municipality as provided in this part.**

37e **(b) An unincorporated area may not be annexed to a municipality unless:**

37f **(i) it is a contiguous area;**

37g **(ii) it is contiguous to the municipality;**

37h **(iii) except as provided in Subsection 10-2-418(1)(b), annexation will not leave or create an**
37i **unincorporated island or peninsula; and**

37j **(iv) for an area located in a specified county with respect to an annexation that occurs after**
37k **December 31, 2002, the area is within the proposed annexing municipality's expansion area.**

37l **(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated**
37m **area unless a petition under Section 10-2-403 is filed requesting annexation.**

37n **(3) An annexation under this part may not include part of a parcel of real property and**
37o **exclude part of that same parcel unless the owner of that parcel has signed the annexation petition**
37p **under Section 10-2-403.**

37q **(4) A municipality may not annex an unincorporated area in a specified county for the sole**
37r **purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the**
37s **same or a related area unless the municipality has the ability and intent to benefit the annexed area by**
37t **providing municipal services to the annexed area.**

37u **(5) The legislative body of a specified county may not approve urban development within a**
37v **municipality's expansion area unless:**

37w **(a) the county notifies the municipality of the proposed development; and**

37x (b) (i) the municipality consents in writing to the development; or

37y (ii) (A) within 90 days after the county's notification of the proposed development, the
37z municipality submits to the county a written objection to the county's approval of the proposed
37aa development; and

37ab (B) the county responds in writing to the municipality's objections.

37ac (6) (a) An annexation petition may not be filed under this part proposing the annexation of an
37ad area located in a county that is not the county in which the proposed annexing municipality is located
37ae unless the legislative body of the county in which the area is located has adopted a resolution
37af approving the proposed annexation.

37ag (b) Each county legislative body that declines to adopt a resolution approving a proposed
37ah annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for
37ai declining to approve the proposed annexation.

37aj (7)(a) As used in this Subsection (7):

37ak (i) "Airport" means an area that the Federal Aviation Administration has, by a record
37al of decision, approved for the construction of a Class I, II, or III commercial service airport, as
37am designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

37an (ii) "Conical surface area" has the same meaning as defined in 14 C.F.R. 77, Objects
37ao Affecting Navigable Airspace.

37ap (b) A municipality may not annex an unincorporated area within the conical surface
37aq area of an airport operated or to be constructed and operated by another municipality unless
37ar the legislative body of the other municipality adopts a resolution consenting to the annexation.

37as (c) A municipality that operates or intends to construct and operate an airport and does
37at not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b)
37au may not deny an annexation petition proposing the annexation of that same area to that
37av municipality. ←Ĥ

38 Section Ĥ→ [†] 2 ←Ĥ . Section 10-2-418 is amended to read:

39 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**
40 **Hearing.**

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

43 (i) (A) the area to be annexed consists of one or more unincorporated islands within or
44 unincorporated peninsulas contiguous to the municipality;

45 (B) the majority of each island or peninsula consists of residential or commercial
46 development;

47 (C) the area proposed for annexation requires the delivery of municipal-type services;

48 and

49 (D) the municipality has provided most or all of the municipal-type services to the area
50 for more than one year; or

51 (ii) (A) the area to be annexed consists of one or more unincorporated islands within or
52 unincorporated peninsulas contiguous to the municipality, each of which has fewer than [~~500~~]
53 800 residents; and

54 (B) the municipality has provided one or more municipal-type services to the area for
55 at least one year.

56 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a

57 portion of an island or peninsula under this section, leaving unincorporated the remainder of
58 the unincorporated island or peninsula, if:

59 (i) in adopting the resolution under Subsection (2)(a)(i), the municipal legislative body
60 determines that not annexing the entire unincorporated island or peninsula is in the
61 municipality's best interest; and

62 (ii) for an annexation of one or more unincorporated islands under Subsection
63 (1)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed,
64 complies with the requirement of Subsection (1)(a)(ii)(A) relating to the number of residents.

65 (2) (a) The legislative body of each municipality intending to annex an area under this
66 section shall:

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

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

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

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

77 (iv) hold a public hearing on the proposed annexation no earlier than ~~[60]~~ 30 days after
78 the adoption of the resolution under Subsection (2)(a)(i).

79 (b) Each notice under Subsections (2)(a)(ii) and (iii) shall:

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

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

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

84 (iv) except for an annexation that meets the property owner consent requirements of
85 Subsection (3)(b), state in conspicuous and plain terms that the municipal legislative body will
86 annex the area unless, at or before the public hearing under Subsection (2)(a)(iv), written
87 protests to the annexation are filed by the owners of private real property that:

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

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

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

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

96 (3) (a) Upon conclusion of the public hearing under Subsection (2)(a)(iv) [~~and subject~~
97 ~~to Subsection (3)(b)~~], the municipal legislative body may adopt an ordinance annexing the area
98 proposed for annexation under this section unless, at or before the hearing, written protests to
99 the annexation have been filed with the city recorder or town clerk, as the case may be, by the
100 owners of private real property that:

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

102 (ii) covers[~~:(A) for a proposed annexation under Subsection (1)(a)(i);~~] a majority of
103 the total private land area within the entire area proposed for annexation; [~~or~~] and

104 [~~(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the total private~~
105 ~~land area within the island of unincorporated area that is proposed for annexation; and]~~

106 (iii) is equal in value to at least[~~:(A) for a proposed annexation under Subsection~~
107 ~~(1)(a)(i);~~] 1/2 the value of all private real property within the entire area proposed for
108 annexation[~~; or~~].

109 [~~(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the value of all~~
110 ~~private real property within the island of unincorporated area that is proposed for annexation.]~~

111 [~~(b) A municipal legislative body may not adopt an ordinance annexing an area~~
112 ~~proposed for annexation under Subsection (1)(a)(ii) unless the legislative body of the county in~~
113 ~~which the area proposed for annexation has previously adopted a resolution approving the~~
114 ~~annexation.]~~

115 (b) (i) Upon conclusion of the public hearing under Subsection (2)(a)(iv), a
116 municipality may adopt an ordinance annexing the area proposed for annexation under this
117 section without allowing or considering protests under Subsection (3)(a) if the owners of at
118 least 75% of the total private land area within the entire area proposed for annexation

118a ↳, representing at least 75% of the value of the private real property within the entire area
118b proposed for annexation, ↳ have

119 consented in writing to the annexation.

120 (ii) Upon adoption of an annexation ordinance under Subsection (3)(b)(i), the area
 121 annexed shall be conclusively presumed to be validly annexed.

122 ~~§→ [(c) Subsections 10-2-425(4) and (5) do not apply to an annexation under this section.] ←§~~

123 (4) (a) If protests are timely filed that comply with Subsection (3), the municipal
 124 legislative body may not adopt an ordinance annexing the area proposed for annexation, and
 125 the annexation proceedings under this section shall be considered terminated.

126 (b) Subsection (4)(a) may not be construed to prohibit the municipal legislative body
 127 from excluding from a proposed annexation under Subsection (1)(a)(ii) the property within an
 128 unincorporated island regarding which protests have been filed and proceeding under
 129 Subsection (1)(b) to annex some or all of the remaining portion of the unincorporated island.

130 Section ~~H→ [2] 3 ←H~~ . Section 10-2-425 is amended to read:

131 **10-2-425. Filing of plat or map and amended articles -- Notice requirements.**

132 (1) Within 30 days after enacting an ordinance annexing an unincorporated area or
 133 adjusting a boundary under this part, the municipal legislative body shall:

134 ~~§→ [f] (a) send notice of the enactment to each affected entity; [f] ←§~~

135 ~~§→ [f] (b) [f(a)] ←§~~ file with the lieutenant governor:

136 (i) a certified copy of the ordinance approving the annexation or boundary adjustment,
 137 together with a plat or map prepared by a licensed surveyor, approved by the municipal
 138 legislative body, and filed with the county surveyor in accordance with Section 17-23-17,
 139 showing the new boundaries of the affected area; and

140 (ii) (A) if the municipality has articles of incorporation, amended articles of
 141 incorporation reflecting the annexation or boundary adjustment, as provided in Section
 142 10-1-117; or

143 (B) if the municipality does not have articles of incorporation, written notice of the
 144 adoption of an annexation ordinance, accompanied by a copy of the ordinance; and

145 ~~[(c)] §→ [(b)] (c) ←§~~ in accordance with Section 26-8a-414, file the documents described in
 146 Subsection (1)~~[(b)]~~ ~~§→ [(a)] (b) ←§~~ (i) with the Department of Health.

147 (2) If an annexation or boundary adjustment under this part also causes an automatic
 148 annexation to a local district under Section 17B-2-515.5 or an automatic withdrawal from a
 149 local district under Subsection 17B-2-601(2), the municipal legislative body shall, as soon as

150 practicable after enacting an ordinance annexing an unincorporated area or adjusting a
 151 boundary, send notice of the annexation or boundary adjustment to the local district to which
 152 the annexed area is automatically annexed or from which the annexed area is automatically
 153 withdrawn.

154 (3) The municipal legislative body shall comply with the notice requirements of
 155 Section 10-1-116.

156 (4) ~~§~~→ [f] **Each** [~~Except for an annexation under Section 10-2-418, each~~] ~~←~~§ notice
 156a required

157 under Subsections (1) and (3) relating to an annexation shall state the effective date of the
 158 annexation, as determined under Subsection (5).

159 (5) ~~§~~→ [f] **An** [~~Except for an annexation under Section 10-2-418, an~~] ~~←~~§ annexation under this
 160 part is completed and takes effect:

161 (a) for the annexation of an area located in a county of the first class ~~§~~→ , **except for an**
 161a **annexation under Section 10-2-418** ~~←~~§ :

162 (i) July 1 following enactment of an ordinance annexing the unincorporated area if:

163 (A) the ordinance is adopted during the preceding November 1 through April 30; and

164 (B) the requirements of Subsection (1) are met before that July 1; or

165 (ii) January 1 following enactment of an ordinance annexing the unincorporated area if:

166 (A) the ordinance is adopted during the preceding May 1 through October 31; and

167 (B) the requirements of Subsection (1) are met before that January 1; and

168 (b) for all other annexations, the date of the lieutenant governor's issuance of:

169 (i) a certification of amended articles under Subsection 10-1-117(3), for an annexation

170 by a municipality that has articles of incorporation and filed with the lieutenant governor

171 amended articles of incorporation under Subsection (1)(a)(iii)(A); or

172 (ii) a certificate of annexation under Subsection (1)(b), for an annexation by a

173 municipality that does not have articles of incorporation and filed with the lieutenant governor

174 a notice of adoption of an annexation ordinance under Subsection (1)(a)(iii)(B).

174a ~~§~~→ **Section 4. Effective dates.**

174b **(1) If this bill is approved by two-thirds of all the members elected to each house, the**

174c **amendments to Section 10-2-402 take effect upon approval by the governor, or the day**

174d **following the constitutional time limit of Utah Constitution Article VII, Seciton 8, without the**

174e **governor's signature, or in the case of a veto, the date of veto override.**

174f **(2) The amendments to Sections 10-2-418 and 10-2-425 take effect on January 1, 2008.** ~~←~~§

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Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
