

1 **ANNEXATION AMENDMENTS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Wayne A. Harper**

5 AN ACT RELATING TO CITIES AND TOWNS; PROVIDING FOR THE FILING OF AN
6 ANNEXATION PETITION BY REGISTERED VOTERS; PROVIDING FOR AN ELECTION
7 ON AN ANNEXATION PETITION FILED BY REGISTERED VOTERS; PROHIBITING
8 THE ANNEXATION OF CERTAIN PENINSULAS OF UNINCORPORATED TERRITORY;
9 ALLOWING THE COUNTY AND THE ANNEXING MUNICIPALITY TO ENTER INTO
10 AN AGREEMENT TO FACILITATE THE TRANSFER OF SERVICES AFTER
11 ANNEXATION; AND MAKING TECHNICAL CORRECTIONS.

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

13 AMENDS:

14 **10-2-403**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

15 **10-2-407**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

16 **10-2-408**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

17 **10-2-411**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

18 **10-2-413**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

19 **10-2-414**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

20 **10-2-415**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

21 **10-2-416**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

22 **10-2-418**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

23 ENACTS:

24 **10-2-408.5**, Utah Code Annotated 1953

25 **10-2-425**, Utah Code Annotated 1953

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

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

1 **10-2-403. Annexation petition -- Requirements.**

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

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

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

7 (b) contain the signatures of:

8 (i) the owners of private real property that:

9 [(i)] (A) is located within the area proposed for annexation;

10 [(ii)] (B) covers a majority of the private land area within the area proposed for
11 annexation; and

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

14 (ii) registered voters residing within the area proposed for annexation equal in number to
15 at least ~~h~~ [10%] 30% ~~h~~ of the number of votes cast within the area proposed for annexation at the last
16 gubernatorial election before the filing of the petition;

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

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

21 (3) A petition under Subsection (1) may not propose the annexation of:

22 (a) all or part of an area proposed for annexation to a municipality in a previously filed
23 petition that has not been denied, rejected, or granted; or

24 (b) an unincorporated peninsula that is surrounded on more than 1/2 its boundary distance
25 by a municipality other than the proposed annexing municipality.

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

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

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

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

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

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

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

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

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

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

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

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

17 **10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest.**

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

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

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

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

24 (iv) the owners of private real property that:

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

27 (B) covers at least 25% of the private land area located in the unincorporated area within
 28 1/2 mile of the area proposed for annexation; and

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

31 (b) (i) (A) Except as provided in Subsection (1)(b)(i)(B), a township planning commission

1 may recommend to the legislative body of the county in which the township is located that the
2 county legislative body file a protest against a proposed annexation under this part of an area
3 located within the township.

4 (B) Subsection (1)(b)(i)(A) does not apply if the time for filing a protest under Subsection
5 [~~10-2-407~~](2)(a)(i)(A) or (2)(e) expires before the effective date of this Subsection (1)(b).

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

10 (B) Notwithstanding Subsection (1)(b)(ii)(A), if the city recorder or town clerk's
11 certification under Subsection 10-2-405(2)(b)(i) occurs before the effective date of this Subsection
12 (1)(b), the township planning commission shall communicate its recommendation under
13 Subsection (2)(b)(i) in writing to the county legislative body within 30 days of the effective date
14 of this Subsection (1)(b) but no later than the deadline for filing a protest under Subsection
15 (2)(a)(i)(A) or (2)(e), excluding an extension under Subsection (2)(f).

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

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

21 (i) be filed:

22 (A) except as provided in Subsections (2)(e) and (f), no later than 60 days after the
23 municipal legislative body's receipt of the notice of certification under Subsection
24 10-2-405(2)(b)(i); and

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

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

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

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

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

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

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

8 (ii) designate one of the signers of the protest as the contact person and state the mailing
9 address of the contact person.

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

14 (i) is undeveloped; and

15 (ii) covers an area that is equivalent to less than 5% of the total land mass of all private real
16 property within the municipality.

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

19 (i) the city recorder or town clerk's certification of the annexation petition under
20 Subsection 10-2- 405(2)(b)(i) occurs before the effective date of this Subsection (2)(f); and

21 (ii) the time for filing a protest under Subsection (2)(a)(i)(A) or (2)(e) has not expired as
22 of the effective date of this Subsection (2)(f).

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

24 (A) the municipal legislative body may, at its next regular meeting after expiration of the
25 deadline under Subsection (2)(a)(i)(A) or (e), deny the annexation petition; or

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

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

1 denial in writing to:

2 (A) the contact sponsor of the annexation petition;

3 (B) the commission;

4 (C) each entity that filed a protest; and

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

6 (b) (i) If no timely protest is filed under this section, the municipal legislative body may[;]:

7 (A) deny the petition; or

8 (B) (I) for a property owner petition under Subsection 10-2-403(2)(b)(i) and subject to

9 Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is the subject of the
10 annexation petition; or

11 (II) for a registered voter petition under Subsection 10-2-403(2)(b)(ii), send a written
12 request, within ten days of the expiration of the protest period, to the legislative body of the county
13 in which the area proposed for annexation is located to hold an election on the proposed
14 annexation as provided in Section 10-2-408.5.

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

17 (A) hold a public hearing; and

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

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

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

24 (iii) If a municipal legislative body denies an annexation petition under Subsection
25 (3)(b)(i)(A), the municipal legislative body shall, within five days of the denial, send written notice
26 of the denial to the contact sponsor and the clerk of the county in which the area proposed for
27 annexation is located.

28 Section 3. Section **10-2-408** is amended to read:

29 **10-2-408. Denial of or granting the annexation petition -- Filing of plat or map.**

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

1 (a) deny the annexation petition; or

2 (b) if the commission approves the annexation[;];

3 (i) grant the annexation petition, if it is a property owner petition under Subsection
4 10-2-403(2)(b)(i), and, by ordinance and consistent with the commission's decision, annex the area
5 that is the subject of the annexation petition; or

6 (ii) if the petition is a registered voter petition under Subsection 10-2-403(2)(b)(ii), send
7 a written request, within ten days of receipt of the commission's decision, to the legislative body
8 of the county in which the area proposed for annexation is located to hold an election on the
9 proposed annexation as provided in Subsection 10-2-408.5.

10 (2) Within 30 days after enacting an ordinance annexing an unincorporated area, the
11 municipal legislative body shall file with the recorder of the county in which the area is located
12 a plat or map, prepared by a licensed surveyor, showing the new boundaries of the municipality.

13 Section 4. Section **10-2-408.5** is enacted to read:

14 **10-2-408.5. Election on registered voter annexation petition.**

15 (1) Each county legislative body receiving a request for an election under Subsection
16 10-2-407(3)(b)(i)(B) or 10-2-408(1)(b)(ii) shall hold an election to place before registered voters
17 residing within the area proposed for annexation the annexation proposal presented in the petition
18 filed under Subsection 10-2-403(2)(b)(ii).

19 (2) Each election under Subsection (1) shall:

20 (a) be held on the next special, regular primary, or regular general election date that is
21 more than 45 days after the county legislative body's receipt of the request for an election; and

22 (b) except as otherwise provided in this section, be held according to the provisions of
23 Title 20A, Elections.

24 (3) If a majority of the votes cast at an election under Subsection (1) are in favor of
25 annexation, the legislative body of the proposed annexing municipality shall, within 15 days of
26 the canvass of the election, adopt an ordinance annexing the area approved for annexation at the
27 election.

28 Section 5. Section **10-2-411** is amended to read:

29 **10-2-411. Disqualification of commission member -- Alternate member.**

30 (1) A member of the commission is disqualified with respect to a protest before the
31 commission if that member owns property:

1 (a) within the area proposed for annexation in a petition that is the subject of the protest;
2 or

3 (b) that is in the unincorporated area within 1/2 mile of the area proposed for annexation
4 in a petition that is the subject of a protest under Subsection 10-2-407(1)(~~d~~)(a)(iv).

5 (2) If a member is disqualified under Subsection (1), the body that appointed the
6 disqualified member shall appoint an alternate member to serve on the commission for purposes
7 of the protest as to which the member is disqualified.

8 Section 6. Section **10-2-413** is amended to read:

9 **10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility**
10 **study.**

11 (1) (a) Unless a proposed annexing municipality denies an annexation petition under
12 Subsection 10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall
13 choose and engage a feasibility consultant within 45 days of:

14 (i) the commission's receipt of a protest under Section 10-2-407, if the commission had
15 been created before the filing of the protest; or

16 (ii) the commission's creation, if the commission is created after the filing of a protest.

17 (b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study
18 with respect to a proposed annexation that meets the criteria of Subsection 10-2-407(2)(e).

19 (2) The commission shall require the feasibility consultant to:

20 (a) complete a feasibility study on the proposed annexation and submit written results of
21 the study to the commission no later than 75 days after the feasibility consultant is engaged to
22 conduct the study;

23 (b) submit with the full written results of the feasibility study a summary of the results no
24 longer than a page in length; and

25 (c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study
26 results and respond to questions at that hearing.

27 (3) (a) Subject to Subsection (4), the feasibility study shall consider:

28 (i) the population and population density within the area proposed for annexation, the
29 surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries
30 within 1/2 mile of the area proposed for annexation, that municipality;

31 (ii) the geography, geology, and topography of and natural boundaries within the area

1 proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a
2 municipality with boundaries within 1/2 mile of the area proposed for annexation, that
3 municipality;

4 (iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated
5 island or peninsula;

6 (iv) whether the proposed annexation will hinder or prevent a future and more logical and
7 beneficial annexation or a future logical and beneficial incorporation;

8 (v) the fiscal impact of the proposed annexation on the remaining unincorporated area,
9 other municipalities, special districts, school districts, and other governmental entities;

10 (vi) current and five-year projections of demographics and economic base in the area
11 proposed for annexation and surrounding unincorporated area, including household size and
12 income, commercial and industrial development, and public facilities;

13 (vii) projected growth in the area proposed for annexation and the surrounding
14 unincorporated area during the next five years;

15 (viii) the present and five-year projections of the cost of governmental services in the area
16 proposed for annexation;

17 (ix) the present and five-year projected revenue to the proposed annexing municipality
18 from the area proposed for annexation;

19 (x) the projected impact the annexation will have over the following five years on the
20 amount of taxes that property owners within the area proposed for annexation, the proposed
21 annexing municipality, and the remaining unincorporated county will pay;

22 (xi) past expansion in terms of population and construction in the area proposed for
23 annexation and the surrounding unincorporated area;

24 (xii) the extension during the past ten years of the boundaries of each other municipality
25 near the area proposed for annexation, the willingness of the other municipality to annex the area
26 proposed for annexation, and the probability that another municipality would annex some or all
27 of the area proposed for annexation during the next five years if the annexation did not occur;

28 (xiii) the history, culture, and social aspects of the area proposed for annexation and
29 surrounding area;

30 (xiv) the method of providing and the entity that has provided municipal-type services in
31 the past to the area proposed for incorporation and the feasibility of municipal-type services being

1 provided by the proposed annexing municipality; and

2 (xv) the effect on each school district whose boundaries include part or all of the area
3 proposed for annexation or the proposed annexing municipality.

4 (b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad
5 valorem property tax rates on residential property within the area proposed for annexation at the
6 same level that residential property within the proposed annexing municipality would be without
7 the annexation.

8 (c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the
9 level and quality of governmental services that will be provided to the area proposed for
10 annexation in the future is essentially comparable to the level and quality of governmental services
11 being provided within the proposed annexing municipality at the time of the feasibility study.

12 (4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of
13 study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in
14 conducting the feasibility study depending upon:

15 (i) the size of the area proposed for annexation;

16 (ii) the size of the proposed annexing municipality;

17 (iii) the extent to which the area proposed for annexation is developed;

18 (iv) the degree to which the area proposed for annexation is expected to develop and the
19 type of development expected; and

20 (v) the number and type of protests filed against the proposed annexation.

21 (b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement
22 that the feasibility consultant provide a full and complete analysis of the items listed in
23 Subsections (3)(a)(viii), (ix), and (xv).

24 (5) If the results of the feasibility study do not meet the requirements of Subsection
25 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations
26 as to how the boundaries of the area proposed for annexation may be altered so that the
27 requirements of Subsection 10-2-416(3) may be met.

28 (6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses
29 shall be shared equally by the proposed annexing municipality and each entity or group under
30 Subsection 10-2-407(1)(a) that files a protest.

31 (b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners

1 under Subsection 10-2-407(1)[(d)](a)(iv), the county in which the area proposed for annexation
2 is located shall pay the owners' share of the feasibility consultant's fees and expenses.

3 (ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file
4 a protest, the county and the proposed annexing municipality shall equally share the property
5 owners' share of the feasibility consultant's fees and expenses.

6 Section 7. Section **10-2-414** is amended to read:

7 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

8 (1) (a) (i) If the results of the feasibility study do not meet the requirements of Subsection
9 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility
10 consultant's submission of the results of the study, file with the city recorder or town clerk of the
11 proposed annexing municipality a modified annexation petition altering the boundaries of the
12 proposed annexation.

13 (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the
14 sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition
15 to the clerk of the county in which the area proposed for annexation is located.

16 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the
17 requirements of Subsections 10-2-403(2), (3), and (4).

18 (2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified
19 annexation petition, the city recorder or town clerk, as the case may be, shall follow the same
20 procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and
21 (3)(a) for an original annexation petition.

22 (b) If the city recorder or town clerk certifies the modified annexation petition under
23 Subsection 10-2-405(2)(b)(i), the city recorder or town clerk, as the case may be, shall send written
24 notice of the certification to:

25 (i) the commission;

26 (ii) each entity that filed a protest to the annexation petition; and

27 (iii) if a protest was filed under Subsection 10-2-407(1)[(d)](a)(iv), the contact person.

28 (c) (i) If the modified annexation petition proposes the annexation of an area that includes
29 part or all of a special district or school district that was not included in the area proposed for
30 annexation in the original petition, the city recorder or town clerk, as the case may be, shall also
31 send notice of the certification of the modified annexation petition to the board of the special

1 district or school district.

2 (ii) If the area proposed for annexation in the modified annexation petition is within 1/2
3 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area
4 proposed for annexation in the original annexation petition, the city recorder or town clerk, as the
5 case may be, shall also send notice of the certification of the modified annexation petition to the
6 legislative body of that municipality.

7 (3) Within ten days of the commission's receipt of the notice under Subsection (2)(b), the
8 commission shall engage the feasibility consultant that conducted the feasibility study to
9 supplement the feasibility study to take into account the information in the modified annexation
10 petition that was not included in the original annexation petition.

11 (4) The commission shall require the feasibility consultant to complete the supplemental
12 feasibility study and to submit written results of the supplemental study to the commission no later
13 than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility
14 study.

15 Section 8. Section **10-2-415** is amended to read:

16 **10-2-415. Public hearing -- Notice.**

17 (1) If the results of the feasibility study or supplemental feasibility study meet the
18 requirements of Subsection 10-2-416(3), the commission shall hold a public hearing within 30
19 days of receipt of the feasibility study or supplemental feasibility study results.

20 (2) At the hearing under Subsection (1), the commission shall:

21 (a) require the feasibility consultant to present the results of the feasibility study and, if
22 applicable, the supplemental feasibility study;

23 (b) allow those present to ask questions of the feasibility consultant regarding the study
24 results; and

25 (c) allow those present to speak to the issue of annexation.

26 (3) (a) The commission shall:

27 (i) publish notice of the hearing at least once a week for two successive weeks in a
28 newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile
29 of unincorporated area, and the proposed annexing municipality; and

30 (ii) send written notice of the hearing to the municipal legislative body of the proposed
31 annexing municipality, the contact sponsor on the annexation petition, each entity that filed a

1 protest, and, if a protest was filed under Subsection 10-2-407(1)[~~(d)~~](a)(iv), the contact person.

2 (b) If there is no newspaper of general circulation within the areas described in Subsection
3 (3)(a)(i), the commission shall give the notice required under that subsection by posting notices,
4 at least seven days before the hearing, in conspicuous places within those areas that are most likely
5 to give notice of the hearing to the residents of those areas.

6 (c) The notices under Subsections (3)(a) and (b) shall include the feasibility study
7 summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is
8 available for inspection and copying at the office of the commission.

9 (4) (a) The commission shall record the hearing under this section by electronic means.

10 (b) A transcription of the recording under Subsection (4)(a), the feasibility study,
11 information received at the hearing, and the written decision of the commission shall constitute
12 the record of the hearing.

13 Section 9. Section **10-2-416** is amended to read:

14 **10-2-416. Commission decision -- Written decision -- Limitation.**

15 (1) Subject to Subsection (3), after the public hearing under Subsection 10-2-415(1) the
16 commission may:

- 17 (a) approve the proposed annexation, either with or without conditions;
- 18 (b) make minor modifications to the proposed annexation and approve it, either with or
19 without conditions; or
- 20 (c) disapprove the proposed annexation.

21 (2) The commission shall issue a written decision on the proposed annexation within 20
22 days of the conclusion of the hearing under Subsection 10-2-415(1) and send a copy of the
23 decision to:

- 24 (a) the legislative body of the county in which the area proposed for annexation is located;
- 25 (b) the legislative body of the proposed annexing municipality;
- 26 (c) the contact person on the annexation petition;
- 27 (d) each entity that filed a protest; and
- 28 (e) if a protest was filed under Subsection 10-2-407(1)[~~(d)~~](a)(iv), the contact person.

29 (3) The commission may not approve a proposed annexation unless the results of the
30 feasibility study under Section 10-2-413 show that the average annual amount under Subsection
31 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection

1 10-2-413(3)(a)(viii) by more than 5%.

2 Section 10. Section **10-2-418** is amended to read:

3 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**
4 **Hearing.**

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

7 (i) the annexation is of an island within or a peninsula contiguous to and surrounded on
8 more than 1/2 its boundary distance by the municipality;

9 (ii) the majority of the area consists of residential or commercial development;

10 (iii) the area proposed for annexation requires the delivery of municipal-type services; and

11 (iv) the municipality has provided most or all of the municipal-type services to the area
12 for more than one year.

13 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion
14 of an island or peninsula under this section, leaving unincorporated the remainder of the
15 unincorporated island or peninsula, if, in adopting the resolution under Subsection (2)(a)(i), the
16 municipal legislative body determines that not annexing the entire unincorporated island or
17 peninsula is in the municipality's best interest.

18 (2) (a) The municipal legislative body of a municipality intending to annex an area under
19 this section shall:

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

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

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

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

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

1 (b) The notice under Subsections (2)(a)(ii) and (iii) shall:

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

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

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

6 (iv) state in conspicuous and plain terms that the municipal legislative body will annex the
7 area unless, at or before the public hearing under Subsection (2)(a)(iv), written protests to the
8 annexation are filed by the owners of private real property that:

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

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

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

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

17 (3) Upon conclusion of the public hearing under Subsection (2)(a)(iv), the municipal
18 legislative body may adopt an ordinance annexing the area proposed for annexation under this
19 section unless, at or before the hearing, written protests to the annexation have been filed with the
20 city recorder or town clerk, as the case may be, by the owners of private real property that:

21 (a) is located within the area proposed for annexation;

22 (b) covers a majority of the total private land area within the area proposed for annexation;
23 and

24 (c) is equal in value to at least 1/3 the value of all private real property within the area
25 proposed for annexation.

26 (4) Within 30 days of the adoption of an ordinance of annexation under Subsection (3),
27 the municipal legislative body shall file with the recorder of the county in which the annexed area
28 is located a plat or map, prepared by a licensed surveyor, showing the new boundary.

29 Section 11. Section **10-2-425** is enacted to read:

30 **10-2-425. Agreement to transfer services and facilitate transfer of area after**
31 **annexation.**

1 A county legislative body and a municipality annexing an area located within the county
2 may enter into an agreement providing for:

3 (1) the orderly transfer of municipal type services from the county to the annexing
4 municipality after annexation; and

5 (2) any financial or administrative arrangements between the county and municipality to
6 facilitate the transfer of the annexing area from the county to the municipality.

Legislative Review Note

as of 2-3-98 9:50 AM

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

Office of Legislative Research and General Counsel