

1 **ANNEXATIONS AND INCORPORATIONS OF**
2 **TOWNSHIPS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: James R. Gowans**

6 Evan L. Olsen

7 AN ACT RELATING TO CITIES AND TOWNS AND COUNTIES; MODIFYING
8 DEFINITIONS; MODIFYING INCORPORATION AND ANNEXATION PROVISIONS TO
9 REQUIRE THE APPROVAL OF CERTAIN TOWNSHIPS BEFORE AN INCORPORATION
10 OR ANNEXATION PETITION MAY BE FILED; PROVIDING FOR AN APPEAL OF THE
11 TOWNSHIP PLANNING COMMISSION DECISION; REPEALING OBSOLETE LANGUAGE;
12 AND MAKING TECHNICAL CHANGES.

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

14 AMENDS:

15 **10-2-103**, as last amended by Chapter 13, Laws of Utah 1998

16 **10-2-107**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

17 **10-2-403**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

18 **10-2-404**, as last amended by Chapter 13, Laws of Utah 1998

19 **10-2-405**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

20 **10-2-407**, as last amended by Chapter 13, Laws of Utah 1998

21 **10-2-414**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

22 **17-27-200.5**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

23 **17-27-204**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

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

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

26 **10-2-103. Request for feasibility study -- Requirements -- Limitations.**

27 (1) The process to incorporate a contiguous area of a county as a city is initiated by a

28 request for a feasibility study filed with the clerk of the county in which the area is located.

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

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

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

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

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

34 (b) indicate the typed or printed name and current residence address of each owner signing
35 the request;

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

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

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

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

43 (3) (a) Except as provided in Subsection (3)(b), a request for a feasibility study under this
44 section proposing the incorporation of an area within a reinstated township, as defined in Section
45 17-27-200.5, may not be filed without the prior approval of that township's planning commission.

46 (b) (i) A decision of the township planning commission withholding approval for the filing
47 of a request for a feasibility study may be appealed to the county legislative body by filing a written
48 request for review with the county clerk within 30 days after the decision.

49 (ii) The county legislative body may in its discretion affirm or override the decision of the
50 township planning commission.

51 [~~3~~] (4) A request for a feasibility study under this section may not describe an area that
52 includes some or all of an area that is the subject of a completed feasibility study or supplemental
53 feasibility study whose results comply with Subsection 10-2-109(3) unless:

54 (a) the proposed incorporation that is the subject of the completed feasibility study or
55 supplemental feasibility study has been defeated by the voters at an election under Section
56 10-2-111; or

57 (b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition
58 based on the completed feasibility study or supplemental feasibility study has elapsed without the

59 filing of a petition.

60 ~~[(4)]~~ (5) A request under this section may not describe an area that includes some or all
61 of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

62 (a) was filed before the filing of the request; and

63 (b) is still pending on the date the request is filed.

64 ~~[(5)(a)]~~ (6) At the time of filing the request for a feasibility study with the county clerk,
65 the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning
66 commission of each township in which any part of the area proposed for incorporation is located.

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

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

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

74 **10-2-107. Modified request for feasibility study -- Supplemental feasibility study.**

75 (1) (a) If the results of the feasibility study do not meet the requirements of Subsection
76 10-2-109(3), the sponsors of the request may, within 90 days of the feasibility consultant's
77 submission of the results of the study, modify the request to alter the boundaries of the proposed
78 city and then refile the request, as modified, with the county clerk.

79 (b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall
80 comply with the requirements of Subsections 10-2-103(2), ~~[(3);]~~ (4), ~~[and] (5)[(a)], and (6).~~

81 (ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section
82 10-2-103 may be used toward fulfilling the signature requirement of Subsection 10-2-103(2)(a)
83 for the request as modified under Subsection (1)(a), unless the modified request proposes the
84 incorporation of an area that is more than 20% greater or smaller than the area described by the
85 original request in terms of:

86 (A) private land area; or

87 (B) value of private real property.

88 (2) Within 20 days of the county clerk's receipt of the modified request, the county clerk
89 shall follow the same procedure for the modified request as provided under Subsection

90 10-2-105(1) for an original request.

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

93 (4) Within ten days of the county legislative body's receipt of a certified modified request,
94 the county legislative body shall commission the feasibility consultant who conducted the
95 feasibility study to supplement the feasibility study to take into account the information in the
96 modified request that was not included in the original request.

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

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

103 (i) the sponsors may file a further modified request as provided in Subsection (1); and

104 (ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection
105 (6)(a)(i).

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

108 Section 3. Section **10-2-403** is amended to read:

109 **10-2-403. Annexation petition -- Requirements.**

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

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

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

115 (b) contain the signatures of the owners of private real property that:

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

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

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

120 (c) be accompanied by an accurate plat or map, prepared by a licensed surveyor, of the area

121 proposed for annexation; and

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

124 (3) (a) Except as provided in Subsection (3)(b), a petition under Subsection (1) proposing
125 the annexation of an area within a reinstated township, as defined in Section 17-27-200.5, may not
126 be filed without the prior approval of that township's planning commission.

127 (b) (i) A decision of the township planning commission withholding approval for the filing
128 of an annexation petition may be appealed to the county legislative body by filing a written request
129 for review with the county clerk within 30 days after the decision.

130 (ii) The county legislative body may in its discretion affirm or override the decision of the
131 township planning commission.

132 [~~3~~] (4) A petition under Subsection (1) may not propose the annexation of all or part of
133 an area proposed for annexation to a municipality in a previously filed petition that has not been
134 denied, rejected, or granted.

135 [~~4~~] (5) A petition under Subsection (1) may not propose the annexation of an area that
136 includes some or all of an area proposed to be incorporated in a request for a feasibility study under
137 Section 10-2-103 or a petition under Section 10-2-125 if:

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

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

141 [~~5~~] (6) If practicable and feasible, the boundaries of an area proposed for annexation shall
142 be drawn along the boundaries of existing special districts for sewer, water, and other services,
143 along the boundaries of school districts whose boundaries follow city boundaries or school districts
144 adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of
145 other taxing entities:

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

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

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

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

151 [~~6~~] (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the

152 petition to:

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

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

156 Section 4. Section **10-2-404** is amended to read:

157 **10-2-404. Certain annexation petitions invalid -- Certain petitions considered filed**
158 **on May 5, 1997 -- Signatures on invalid petitions -- Special requirements for certain**
159 **petitions.**

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

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

165 (a) except as provided in Subsection (2)(b), be considered to have been filed on May 5,
166 1997, and shall be processed according to the provisions of this part; and

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

169 (3) Notwithstanding Subsection (1), the signatures on an annexation petition that is invalid
170 because of Subsection (1) may be used toward fulfilling the signature requirement of Subsection
171 10-2-403(2)(b).

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

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

181 [~~(c) Subsections (4)(a) and (b) do not apply if the time for filing a protest under Subsection~~
182 ~~10-2-407(2)(a)(i)(A) or (2)(e), excluding an extension under Subsection 10-2-407(2)(f), expires~~

183 before July 17, 1997.]

184 Section 5. Section **10-2-405** is amended to read:

185 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

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

187 (i) deny a petition filed under Section 10-2-403; or

188 (ii) accept the petition for further consideration under this part.

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

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

195 (a) with the assistance of the municipal attorney and of the clerk, surveyor, and recorder
196 of the county in which the area proposed for annexation is located, determine whether the petition
197 meets the requirements of Subsections 10-2-403(2), [~~(3)~~, and] (4), and (5); and

198 (b) (i) if the city recorder or town clerk determines that the petition meets those
199 requirements, certify the petition and mail or deliver written notification of the certification to the
200 municipal legislative body, the contact sponsor, the county legislative body, and the chair of the
201 planning commission of each township in which any part of the area proposed for annexation is
202 located; or

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

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

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

214 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city
215 recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a newly
216 filed petition under Subsection 10-2-403(1).

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

219 Section 6. Section 10-2-407 is amended to read:

220 **10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest**
221 **-- Township planning commission recommendation.**

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

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

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

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

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

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

231 (B) covers at least 25% of the private land area located in the unincorporated area within
232 1/2 mile of the area proposed for annexation; and

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

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

239 (B) Subsection (1)(b)(i)(A) does not apply [~~if the time for filing a protest under Subsection~~
240 ~~10-2-407(2)(a)(i)(A) or (2)(e) expires before July 17, 1997]~~ to a reinstated township, as defined
241 in Section 17-27-200.5.

242 (ii) (A) [~~Except as provided in Subsection (1)(b)(ii)(B), the]~~ The township planning
243 commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the
244 county legislative body within 30 days of the city recorder or town clerk's certification of the

245 annexation petition under Subsection 10-2-405(2)(b)(i).

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

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

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

256 (i) be filed:

257 (A) except as provided in Subsections (2)(e) and (f), no later than 60 days after the
258 municipal legislative body's receipt of the notice of certification under Subsection
259 10-2-405(2)(b)(i); and

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

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

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

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

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

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

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

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

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

280 (i) is undeveloped; and

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

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

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

287 ~~[(ii) the time for filing a protest under Subsection (2)(a)(i)(A) or (2)(e) has not expired as~~
288 ~~of July 17, 1997;]~~

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

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

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

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

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

300 (B) the commission;

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

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

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

306 (ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal

307 legislative body shall:

308 (A) hold a public hearing; and

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

310 (I) publish notice of the hearing in a newspaper of general circulation within the

311 municipality and the area proposed for annexation; or

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

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

316 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

317 (1) (a) (i) If the results of the feasibility study do not meet the requirements of Subsection
318 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility
319 consultant's submission of the results of the study, file with the city recorder or town clerk of the
320 proposed annexing municipality a modified annexation petition altering the boundaries of the
321 proposed annexation.

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

325 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the
326 requirements of Subsections 10-2-403(2), [~~(3)~~, and] (4), and (5).

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

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

334 (i) the commission;

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

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

337 (c) (i) If the modified annexation petition proposes the annexation of an area that includes

338 part or all of a special district or school district that was not included in the area proposed for
339 annexation in the original petition, the city recorder or town clerk, as the case may be, shall also
340 send notice of the certification of the modified annexation petition to the board of the special
341 district or school district.

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

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

351 (4) The commission shall require the feasibility consultant to complete the supplemental
352 feasibility study and to submit written results of the supplemental study to the commission no later
353 than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility
354 study.

355 Section 8. Section **17-27-200.5** is amended to read:

356 **17-27-200.5. Townships.**

357 (1) As used in this part:

358 (a) "Reinstated township" means a township that was reconstituted under Chapter 389,
359 Laws of Utah 1997, reinstated under Subsection (2)(e)(i)(A), or established under Subsection
360 (2)(e)(i)(B).

361 [(a)] (b) "Township" means a contiguous, geographically defined portion of the
362 unincorporated area of a county, established under this part or reconstituted or reinstated under
363 Subsection [17-27-200.5](2)(e) of this part, with planning and zoning functions as exercised
364 through the township planning commission, as provided in this part, but with no legal or political
365 identity separate from the county and no taxing authority, except that "township" means a former
366 township under Chapter 308, Laws of Utah 1996, where the context so indicates.

367 [(b)] (c) "Unincorporated" means not within a municipality.

368 (2) (a)(i) Subject to Subsection (2)(a)(ii), a county legislative body may enact an ordinance

369 establishing a township within the unincorporated county or dividing the unincorporated county
370 into townships.

371 (ii) Before enacting an ordinance under Subsection (2)(a)(i), the county legislative body
372 shall, after providing reasonable advance notice, hold a public hearing on the proposal to establish
373 a township or to divide the unincorporated county into townships.

374 (b) If 25% of the private real property owners in a contiguous area of the unincorporated
375 county petition the county legislative body to establish a township for that area, the county
376 legislative body shall:

377 (i) hold a public hearing to discuss the petition;

378 (ii) at least one week before the public hearing, publish notice of the petition and the time,
379 date, and place of the public hearing at least once in a newspaper of general circulation in the
380 county; and

381 (iii) at the public hearing, consider oral and written testimony from the public and vote on
382 the question of whether or not to establish a township.

383 (c) If the county legislative body establishes a township pursuant to a petition, the
384 members of the township planning commission shall be appointed as provided in Subsection
385 17-27-201(3)(b) to perform the duties established in this part for the township.

386 (d) Except as provided in Subsection (2)(e), each township shall contain:

387 (i) in a county of the first, second, or third class:

388 (A) at least 20% but not more than 80% of:

389 (I) the total private land area in the unincorporated county; or

390 (II) the total value of locally assessed taxable property in the unincorporated county; or

391 (B) at least 5% of the total population of the unincorporated county; or

392 (ii) in a county of the fourth, fifth, or sixth class:

393 (A) at least 20% but not more than 80% of:

394 (I) the total private land area in the unincorporated county; or

395 (II) the total value of locally assessed taxable property in the unincorporated county; and

396 (B) at least 25% of the total population of the unincorporated county.

397 (e) (i) (A) A township that was dissolved under Chapter 389, Laws of Utah 1997, is
398 reinstated as a township under this part with the same boundaries and name as before the
399 dissolution, if the former township consisted of a single, contiguous land area.

400 (B) Notwithstanding Subsection (2)(e)(i)(A), a county legislative body may enact an
401 ordinance establishing as a township under this part a former township that was dissolved under
402 Chapter 389, Laws of Utah 1997, even though the former township does not qualify to be
403 reinstated under Subsection (2)(e)(i)(A).

404 (C) A [township] reinstated [~~under Subsection (2)(e)(i)(A) or established under Subsection~~
405 ~~(2)(e)(i)(B)] township shall be subject to the provisions of this part.~~

406 (ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each
407 township planning district established under Chapter 389, Laws of Utah 1997, shall continue in
408 existence as a township, subject to the provisions of this part.

409 (f) (i) After May 1, 2002, the legislative body of each county in which a reinstated
410 township [~~that has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated under~~
411 ~~Subsection (2)(e)(i)] is located shall review the township and determine whether its continued
412 existence is advisable.~~

413 (ii) In conducting the review required under Subsection (2)(f)(i), the county legislative
414 body shall hold a public hearing with reasonable, advance, published notice of the hearing and the
415 purpose of the hearing.

416 (iii) Each reinstated township [~~that has been reconstituted under Chapter 389, Laws of~~
417 ~~Utah 1997, or reinstated or established under Subsection (2)(e)(i)] and its planning commission
418 shall continue in effect, unless, within 90 days after conducting the review and public hearing
419 required under Subsections (2)(f)(i) and (ii), the county legislative body by ordinance dissolves the
420 township and its planning commission.~~

421 (g) A township established under this section on or after May 5, 1997, may use the word
422 "township" in its name.

423 (3) (a) If the county legislative body establishes a township without having received a
424 petition, the county legislative body may:

425 (i) assign to the countywide planning commission the duties established in this part that
426 would have been assumed by a township planning commission designated under Subsection
427 (3)(a)(ii); or

428 (ii) designate a planning commission for the township.

429 (b) (i) If the county legislative body fails to designate a planning commission for a
430 township, 40% of the private real property owners in the area proposed to be included in the

431 township, as shown by the last county assessment roll, may petition the county legislative body to
432 designate and appoint a planning commission for the township.

433 (ii) If the county legislative body determines that the petition is validly signed by 40% of
434 the private real property owners in the township, as shown by the last county assessment roll, it
435 shall designate and appoint a planning commission for the township.

436 (4) (a) Except as provided in Subsection (2)(f)(iii), a county legislative body may dissolve
437 township planning commissions created under the authority of this section only by following the
438 procedures and requirements of this Subsection (4).

439 (b) If 20% of the private real property owners in the county petition the county legislative
440 body to dissolve township planning commissions and to appoint a countywide planning
441 commission, the county legislative body shall:

442 (i) hold a public hearing to discuss the petition;

443 (ii) at least one week before the public hearing, publish notice of the petition and the time,
444 date, and place of the public hearing at least once in a newspaper of general circulation in the
445 county; and

446 (iii) at the public hearing, consider oral and written testimony from the public and vote on
447 the question of whether or not to dissolve township planning commissions and to appoint a
448 countywide planning commission.

449 (c) (i) If the county legislative body fails to dissolve township planning commissions and
450 to appoint a countywide planning commission when petitioned to do so by private real property
451 owners under this subsection, 40% of private real property owners in the county, as shown by the
452 last county assessment roll, may petition the county legislative body to dissolve the township
453 planning commissions and to appoint a countywide planning commission.

454 (ii) If the county legislative body determines that the petition is validly signed by 40% of
455 private real property owners in the township, as shown by the last county assessment roll, it shall
456 dissolve the township planning commissions and appoint a countywide planning commission.

457 Section 9. Section **17-27-204** is amended to read:

458 **17-27-204. Powers and duties.**

459 (1) Each countywide or township planning commission shall, with respect to the county
460 or township, as the case may be:

461 (a) prepare and recommend a general plan and amendments to the general plan to the

462 county legislative body as provided in this chapter;
463 (b) recommend zoning ordinances and maps, and amendments to zoning ordinances and
464 maps, to the county legislative body as provided in this chapter;
465 (c) administer provisions of the zoning ordinance, if specifically provided for in the zoning
466 ordinance adopted by the county legislative body;
467 (d) recommend subdivision regulations and amendments to those regulations to the county
468 legislative body as provided in this chapter;
469 (e) recommend approval or denial of subdivision applications as provided in this chapter;
470 (f) advise the county legislative body on matters as the county legislative body directs;
471 (g) hear or decide any matters that the county legislative body designates, including the
472 approval or denial of, or recommendations to approve or deny, conditional use permits;
473 (h) exercise any other powers delegated to it by the county legislative body; and
474 (i) exercise any other powers that are necessary to enable it to perform its functions.
475 (2) The planning commission of a township under this part, other than a reinstated
476 township, may recommend to the legislative body of the county in which the township is located:
477 (a) that the county legislative body support or oppose a proposed incorporation of an area
478 located within the township, as provided in Subsection 10-2-105(4); or
479 (b) that the county legislative body file a protest to a proposed annexation of an area
480 located within the township, as provided in Subsection 10-2-407(1)(b).
481 (3) Subject to an appeal as provided in Subsections 10-2-103(3)(b) and 10-2-403(3)(b),
482 the planning commission of a reinstated township may grant or withhold approval of the filing of:
483 (a) a request for a feasibility study under Section 10-2-103 that proposes the incorporation
484 of an area that includes some or all of the township; and
485 (b) an annexation petition under Section 10-2-403 that proposes the annexation of an area
486 that includes some or all of the township.

Legislative Review Note
as of 2-12-99 4:44 PM

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

Office of Legislative Research and General Counsel