

TOWNSHIP AUTHORITY

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: James R. Gowans

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

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

AMENDS:

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

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

10-2-403, as last amended by Chapter 205, Laws of Utah 1999

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

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

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

10-2-414, as last amended by Chapter 21, Laws of Utah 1999

10-2-416, as repealed and reenacted by Chapter 389, Laws of Utah 1997

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

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

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

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

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

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

- 28 (2) Each request under Subsection (1) shall:
- 29 (a) be signed by the owners of private real property that:
- 30 (i) is located within the area proposed to be incorporated;
- 31 (ii) covers at least 10% of the total private land area within the area; and
- 32 (iii) is equal in value to at least 7% of the value of all private real property within the area;
- 33 (b) indicate the typed or printed name and current residence address of each owner signing
- 34 the request;
- 35 (c) describe the contiguous area proposed to be incorporated as a city;
- 36 (d) designate up to five signers of the request as sponsors, one of whom shall be designated
- 37 as the contact sponsor, with the mailing address and telephone number of each;
- 38 (e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed
- 39 surveyor, showing the boundaries of the proposed city; and
- 40 (f) request the county legislative body to commission a study to determine the feasibility
- 41 of incorporating the area as a city.

42 (3) (a) Except as provided in Subsection (3)(b), a request for a feasibility study under this

43 section proposing the incorporation of an area within a reinstated township, as defined in Section

44 17-27-200.5, may not be filed without the prior approval of that township's planning commission.

45 (b) (i) A decision of the township planning commission withholding approval for the filing

46 of a request for a feasibility study may be appealed to the county legislative body by filing a written

47 request for review with the county clerk within 30 days after the decision.

48 (ii) The county legislative body may in its discretion affirm or override the decision of the

49 township planning commission.

50 ~~[(3)]~~ (4) A request for a feasibility study under this section may not describe an area that

51 includes some or all of an area that is the subject of a completed feasibility study or supplemental

52 feasibility study whose results comply with Subsection 10-2-109(3) unless:

53 (a) the proposed incorporation that is the subject of the completed feasibility study or

54 supplemental feasibility study has been defeated by the voters at an election under Section

55 10-2-111; or

56 (b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition

57 based on the completed feasibility study or supplemental feasibility study has elapsed without the

58 filing of a petition.

59 ~~[(4)]~~ (5) A request under this section may not describe an area that includes some or all
60 of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- 61 (a) was filed before the filing of the request; and
62 (b) is still pending on the date the request is filed.

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

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

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

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

73 **10-2-107. Modified request for feasibility study -- Supplemental feasibility study.**

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

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

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

- 85 (A) private land area; or
86 (B) value of private real property.

87 (2) Within 20 days of the county clerk's receipt of the modified request, the county clerk
88 shall follow the same procedure for the modified request as provided under Subsection
89 10-2-105(1) for an original request.

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

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

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

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

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

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

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

108 **10-2-403. Annexation petition -- Requirements.**

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

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

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

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

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

116 (ii) (A) subject to Subsection (2)(b)(ii)(B), covers a majority of the private land area within
117 the area proposed for annexation; and

118 (B) covers 100% of the private land area within the area proposed for annexation, if the
119 area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture
120 Protection Area; and

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

123 (c) be accompanied by an accurate plat or map, prepared by a licensed surveyor, of the area
124 proposed for annexation; and

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

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

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

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

135 [~~3~~] (4) A petition under Subsection (1) may not propose the annexation of all or part of
136 an area proposed for annexation to a municipality in a previously filed petition that has not been
137 denied, rejected, or granted.

138 [~~4~~] (5) A petition under Subsection (1) may not propose the annexation of an area that
139 includes some or all of an area proposed to be incorporated in a request for a feasibility study under
140 Section 10-2-103 or a petition under Section 10-2-125 if:

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

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

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

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

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

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

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

154 ~~[(6)]~~ (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the
155 petition to:

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

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

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

160 **10-2-404. Certain annexation petitions invalid -- Certain petitions considered filed**
161 **on May 5, 1997 -- Signatures on invalid petitions -- Special requirements for certain**
162 **petitions.**

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

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

168 (a) except as provided in Subsection (2)(b), be considered to have been filed on May 5,
169 1997, and shall be processed according to the provisions of this part; and

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

172 (3) Notwithstanding Subsection (1), the signatures on an annexation petition that is invalid
173 because of Subsection (1) may be used toward fulfilling the signature requirement of Subsection
174 10-2-403(2)(b).

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

180 ~~[(b) Except as provided in Subsection (4)(c), if an annexation petition described in~~
181 ~~Subsection (4)(a) is accepted by a municipal legislative body under Subsection 10-2-405(1)(a)(ii),~~
182 ~~the municipal legislative body may not grant the petition for annexation until after expiration of~~

183 the deadline for filing a protest under Subsection 10-2-407(2)(a)(i)(A), (2)(e), or (2)(f).]

184 [~~(c) Subsections (4)(a) and (b) do not apply if the time for filing a protest under Subsection~~
185 ~~10-2-407(2)(a)(i)(A) or (2)(e), excluding an extension under Subsection 10-2-407(2)(f), expires~~
186 ~~before July 17, 1997.]~~

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

188 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

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

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

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

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

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

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

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

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

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

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

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

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

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

223 **10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest**
224 **-- Township planning commission recommendation.**

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

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

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

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

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

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

234 (B) covers at least 25% of the private land area located in the unincorporated area within
235 1/2 mile of the area proposed for annexation; and

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

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

242 (B) Subsection (1)(b)(i)(A) does not apply [if the time for filing a protest under Subsection
243 ~~10-2-407(2)(a)(i)(A) or (2)(e) expires before July 17, 1997~~ to a reinstated township, as defined
244 in Section 17-27-200.5.

245 (ii) (A) [~~Except as provided in Subsection (1)(b)(ii)(B), the~~] The township planning
246 commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the
247 county legislative body within 30 days of the city recorder or town clerk's certification of the
248 annexation petition under Subsection 10-2-405(2)(b)(i).

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

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

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

259 (i) be filed:

260 (A) except as provided in Subsections (2)(e) and (f), no later than 60 days after the
261 municipal legislative body's receipt of the notice of certification under Subsection
262 10-2-405(2)(b)(i); and

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

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

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

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

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

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

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

276 the protest; and

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

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

283 (i) is undeveloped; and

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

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

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

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

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

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

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

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

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

303 (B) the commission;

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

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

306 (b) (i) If no timely protest is filed under this section, the municipal legislative body may,

307 subject to Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is the
308 subject of the annexation petition.

309 (ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal
310 legislative body shall:

311 (A) hold a public hearing; and

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

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

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

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

319 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

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

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

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

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

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

337 (i) the commission;

338 (ii) each entity that filed a protest to the annexation petition; and
339 (iii) if a protest was filed under Subsection 10-2-407(1)(a)(iv), the contact person.
340 (c) (i) If the modified annexation petition proposes the annexation of an area that includes
341 part or all of a special district or school district that was not included in the area proposed for
342 annexation in the original petition, the city recorder or town clerk, as the case may be, shall also
343 send notice of the certification of the modified annexation petition to the board of the special
344 district or school district.

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

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

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

358 Section 8. Section **10-2-416** is amended to read:

359 **10-2-416. Commission decision -- Written decision -- Limitation.**

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

- 362 (a) approve the proposed annexation, either with or without conditions;
- 363 (b) make minor modifications to the proposed annexation and approve it, either with or
364 without conditions; or
- 365 (c) disapprove the proposed annexation.

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

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

374 (3) The commission may not approve a proposed annexation unless the results of the
375 feasibility study under Section 10-2-413 show that the average annual amount under Subsection
376 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection
377 10-2-413(3)(a)(viii) by more than 5%.

378 Section 9. Section **17-27-200.5** is amended to read:

379 **17-27-200.5. Townships.**

380 (1) As used in this part:

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

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

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

391 (2) (a)(i) Subject to Subsection (2)(a)(ii), a county legislative body may enact an ordinance
392 establishing a township within the unincorporated county or dividing the unincorporated county
393 into townships.

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

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

400 (i) hold a public hearing to discuss the petition;
401 (ii) at least one week before the public hearing, publish notice of the petition and the time,
402 date, and place of the public hearing at least once in a newspaper of general circulation in the
403 county; and

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

406 (c) If the county legislative body establishes a township pursuant to a petition, the
407 members of the township planning commission shall be appointed as provided in Subsection
408 17-27-201(3)(b) to perform the duties established in this part for the township.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

429 (ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each
430 township planning district established under Chapter 389, Laws of Utah 1997, shall continue in

431 existence as a township, subject to the provisions of this part.

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

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

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

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

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

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

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

452 (b) (i) If the county legislative body fails to designate a planning commission for a
453 township, 40% of the private real property owners in the area proposed to be included in the
454 township, as shown by the last county assessment roll, may petition the county legislative body to
455 designate and appoint a planning commission for the township.

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

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

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

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

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

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

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

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

480 Section 10. Section **17-27-204** is amended to read:

481 **17-27-204. Powers and duties.**

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

484 (a) prepare and recommend a general plan and amendments to the general plan to the
485 county legislative body as provided in this chapter;

486 (b) recommend zoning ordinances and maps, and amendments to zoning ordinances and
487 maps, to the county legislative body as provided in this chapter;

488 (c) administer provisions of the zoning ordinance, if specifically provided for in the zoning
489 ordinance adopted by the county legislative body;

490 (d) recommend subdivision regulations and amendments to those regulations to the county
491 legislative body as provided in this chapter;

492 (e) recommend approval or denial of subdivision applications as provided in this chapter;

- 493 (f) advise the county legislative body on matters as the county legislative body directs;
494 (g) hear or decide any matters that the county legislative body designates, including the
495 approval or denial of, or recommendations to approve or deny, conditional use permits;
496 (h) exercise any other powers delegated to it by the county legislative body; and
497 (i) exercise any other powers that are necessary to enable it to perform its functions.
- 498 (2) The planning commission of a township under this part, other than a reinstated
499 township, may recommend to the legislative body of the county in which the township is located:
500 (a) that the county legislative body support or oppose a proposed incorporation of an area
501 located within the township, as provided in Subsection 10-2-105(4); or
502 (b) that the county legislative body file a protest to a proposed annexation of an area
503 located within the township, as provided in Subsection 10-2-407(1)(b).
- 504 (3) Subject to an appeal as provided in Subsections 10-2-103(3)(b) and 10-2-403(3)(b),
505 the planning commission of a reinstated township may grant or withhold approval of the filing of:
506 (a) a request for a feasibility study under Section 10-2-103 that proposes the incorporation
507 of an area that includes some or all of the township; and
508 (b) an annexation petition under Section 10-2-403 that proposes the annexation of an area
509 that includes some or all of the township.

Legislative Review Note

as of 9-8-99 7:07 AM

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

Office of Legislative Research and General Counsel