

1                               **ANNEXATION OF UNINCORPORATED AREAS**

2                                                    2000 GENERAL SESSION

3                                                    STATE OF UTAH

4                               **Sponsor: L. Steven Poulton**

5 AN ACT RELATING TO THE UTAH MUNICIPAL CODE; REQUIRING A CITY TO  
6 APPROVE AN ANNEXATION UNDER CERTAIN CIRCUMSTANCES; AND MAKING  
7 TECHNICAL CHANGES.

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

9 AMENDS:

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

11               **10-2-405**, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

12               **10-2-407**, as last amended by Chapter 13, Laws of Utah 1998

13               **10-2-408**, as last amended by Chapters 85 and 337, Laws of Utah 1998

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

15               Section 1. Section **10-2-404** is amended to read:

16               **10-2-404. Certain annexation petitions invalid -- Certain petitions considered filed**  
17 **on May 5, 1997 -- Signatures on invalid petitions -- Special requirements for certain**  
18 **petitions.**

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

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

24               (a) except as provided in Subsection (2)(b), be considered to have been filed on May 5,  
25 1997, and shall be processed according to the provisions of this part; and

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

28 (3) Notwithstanding Subsection (1), the signatures on an annexation petition that is invalid  
29 because of Subsection (1) may be used toward fulfilling the signature requirement of Subsection  
30 10-2-403(2)(b).

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

36 (b) Except as provided in Subsection (4)(c), if an annexation petition described in  
37 Subsection (4)(a) is accepted by a municipal legislative body under Subsection  
38 10-2-405(1)(a)[(ii)](i), the municipal legislative body may not grant the petition for annexation  
39 until after expiration of the deadline for filing a protest under Subsection 10-2-407(2)(a)(i)(A),  
40 (2)(e), or (2)(f).

41 (c) Subsections (4)(a) and (b) do not apply if the time for filing a protest under Subsection  
42 10-2-407(2)(a)(i)(A) or (2)(e), excluding an extension under Subsection 10-2-407(2)(f), expires  
43 before July 17, 1997.

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

45 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

46 (1) (a) (i) A municipal legislative body may:

47 [(i)] (A) except as provided in Subsection (1)(b), deny a petition filed under Section  
48 10-2-403; or

49 [(ii)] (B) accept the petition for further consideration under this part.

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

55 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403 if  
56 the property tax rate for municipal services in the area proposed to be annexed is higher than the  
57 property tax rate of the proposed annexing municipality.

58 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(ii), the city

59 recorder or town clerk, as the case may be, shall, within 30 days of that acceptance:

60 (a) with the assistance of the municipal attorney and of the clerk, surveyor, and recorder  
61 of the county in which the area proposed for annexation is located, determine whether the petition  
62 meets the requirements of Subsections 10-2-403(2), (3), and (4); and

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

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

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

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

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

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

84 Section 3. Section **10-2-407** is amended to read:

85 **10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest**  
86 **-- Township planning commission recommendation.**

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

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

89 (ii) the board of a special district whose boundaries include part or all of the area proposed

90 for annexation;

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

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

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

96 (B) covers at least 25% of the private land area located in the unincorporated area within  
97 1/2 mile of the area proposed for annexation; and

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

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

104 (B) Subsection (1)(b)(i)(A) does not apply if the time for filing a protest under Subsection  
105 [~~10-2-407~~](2)(a)(i)(A) or (2)(e) expires before July 17, 1997.

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

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

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

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

120 (i) be filed:

121 (A) except as provided in Subsections (2)(e) and (f), no later than 60 days after the  
122 municipal legislative body's receipt of the notice of certification under Subsection  
123 10-2-405(2)(b)(i); and

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

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

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

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

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

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

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

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

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

144 (i) is undeveloped; and

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

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

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

151 (ii) the time for filing a protest under Subsection (2)(a)(i)(A) or (2)(e) has not expired as

152 of July 17, 1997.

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

154 (A) the municipal legislative body may, at its next regular meeting after expiration of the  
155 deadline under Subsection (2)(a)(i)(A) or (e) and except as provided in Subsection (3)(a)(iii), deny  
156 the annexation petition; or

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

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

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

165 (B) the commission;

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

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

168 (iii) A municipal legislative body may not deny an annexation petition if the property tax  
169 rate for municipal services in the area proposed to be annexed is higher than the property tax rate  
170 of the proposed annexing municipality.

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

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

176 (A) hold a public hearing; and

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

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

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

183 Section 4. Section **10-2-408** is amended to read:  
184 **10-2-408. Denial of or granting the annexation petition.**  
185 (1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2),  
186 a municipal legislative body may:  
187 [(1)] (a) except as provided in Subsection (2), deny the annexation petition; or  
188 [(2)] (b) if the commission approves the annexation, grant the annexation petition and, by  
189 ordinance and consistent with the commission's decision, annex the area that is the subject of the  
190 annexation petition.  
191 (2) A municipal legislative body may not deny an annexation petition if the property tax  
192 rate for municipal services in the area proposed to be annexed is higher than the property tax rate  
193 of the proposed annexing municipality.

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**Legislative Review Note**  
**as of 2-3-00 3:55 PM**

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

**Office of Legislative Research and General Counsel**