

ANNEXATION AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Marda Dillree

This act modifies provisions of the Utah Municipal Code relating to municipal annexations. The act establishes an annexation procedure for counties of the second, third, fourth, fifth, and sixth classes that is different from that for counties of the first class. The act requires municipalities within counties of the second, third, fourth, fifth, and sixth classes to adopt an annexation policy plan before future annexations after a certain date may occur. The act eliminates the feasibility study requirement for annexations of areas in a county of the second, third, fourth, fifth, and sixth classes. The act allows an owner of public property to file an annexation petition. The act also makes technical changes.

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

AMENDS:

- 10-2-401**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-402**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-403**, as last amended by Chapter 205, Laws of Utah 1999
- 10-2-405**, as last amended by Chapter 193, Laws of Utah 2000
- 10-2-406**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-407**, as last amended by Chapter 193, Laws of Utah 2000
- 10-2-408**, as last amended by Chapter 193, Laws of Utah 2000
- 10-2-409**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-410**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-411**, as last amended by Chapter 21, Laws of Utah 1999
- 10-2-412**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 10-2-413**, as last amended by Chapter 21, Laws of Utah 1999
- 10-2-414**, as last amended by Chapter 21, Laws of Utah 1999



- 28 **10-2-415**, as last amended by Chapter 21, Laws of Utah 1999
- 29 **10-2-416**, as last amended by Chapter 1, Laws of Utah 2000
- 30 **10-2-421**, as repealed and reenacted by Chapter 389, Laws of Utah 1997
- 31 **10-2-426**, as enacted by Chapter 337, Laws of Utah 1998

32 ENACTS:

- 33 **10-2-401.5**, Utah Code Annotated 1953
- 34 **10-2-409.5**, Utah Code Annotated 1953

35 REPEALS:

- 36 **10-2-404**, as last amended by Chapter 193, Laws of Utah 2000

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

38 Section 1. Section **10-2-401** is amended to read:

39 **10-2-401. Definitions -- Property owner provisions.**

40 (1) As used in this part:

41 (a) "Affected entity" means:

42 (i) a county in whose unincorporated area the area proposed for annexation is located;

43 (ii) an independent special district under Title 17A, Chapter 2, Independent Special

44 Districts, whose boundaries include any part of an area proposed for annexation;

45 (iii) a school district whose boundaries include any part of an area proposed for
46 annexation; and

47 (iv) a municipality whose boundaries are within 1/2 mile of an area proposed for
48 annexation.

49 [~~(a)~~] (b) "Annexation petition" means a petition under Section 10-2-403 proposing the
50 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the
51 municipality.

52 [~~(b)~~] (c) "Commission" means a boundary commission established under Section 10-2-409
53 for the county in which the property that is proposed for annexation is located.

53a **h (d) "EXPANSION AREA" MEANS THE UNINCORPORATED AREA THAT IS IDENTIFIED IN AN**
53b **ANNEXATION POLICY PLAN UNDER SECTION 10-2-401.5 AS THE AREA THAT THE MUNICIPALITY**
53c **ANTICIPATES ANNEXING IN THE FUTURE. h**

54 [~~(c)~~] **h** [~~(d)~~] (e) **h** "Feasibility consultant" means a person or firm with expertise in the
54a processes and
55 economics of local government.

56 [~~(d)~~] **h** [~~(e)~~] (f) **h** "Municipal selection committee" means a committee in each county
56a composed
57 of the mayor of each municipality within that county.

58 [~~(e)~~] **h** [~~(f)~~] (g) **h** "Private," with respect to real property, means not owned by the United
58a States or

59 any agency of the federal government, the state, a county, a municipality, a school district, a special
 60 district under Title 17A, Special Districts, or any other political subdivision or governmental entity
 61 of the state.

62 ~~h (g)~~ **h** ~~h~~ "Specified county" means a county of the second, third, fourth, fifth, or sixth
 62a class.

63 ~~h (tr)~~ **h** ~~h~~ "Urban development" means:

64 (i) a housing development with more than 15 residential units and an average density
 65 greater than one residential unit per acre; or

66 (ii) a commercial or industrial development for which cost projections exceed \$750,000
 67 for all phases.

68 (2) For purposes of this part:

69 (a) the owner of real property shall be the record title owner according to the records of
 70 the county recorder on the date of the filing of the petition or protest; and

71 (b) the value of private real property shall be determined according to the last assessment
 72 roll for county taxes before the filing of the petition or protest.

73 (3) For purposes of each provision of this part that requires the owners of private real
 74 property covering a percentage or majority of the total private land area within an area to sign a
 75 petition or protest:

76 (a) a parcel of real property may not be included in the calculation of the required
 77 percentage or majority unless the petition or protest is signed by:

78 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership
 79 interest in that parcel; or

80 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
 81 of owners of that parcel;

82 (b) the signature of a person signing a petition or protest in a representative capacity on
 83 behalf of an owner is invalid unless:

84 (i) the person's representative capacity and the name of the owner the person represents
 85 are indicated on the petition or protest with the person's signature; and

86 (ii) the person provides documentation accompanying the petition or protest that
 87 substantiates the person's representative capacity; and

88 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
 89 petition or protest on behalf of a deceased owner.

90 Section 2. Section **10-2-401.5** is enacted to read:

91 **10-2-401.5. Annexation policy plan.**

92 (1) After December 31, 2002, no municipality may annex an unincorporated area located
93 within a specified county unless the municipality has adopted an annexation policy plan as
94 provided in this section.

95 (2) To adopt an annexation policy plan:

96 (a) the planning commission shall:

97 (i) prepare a proposed annexation policy plan that complies with Subsection (3);

98 (ii) hold a public meeting to allow affected entities to examine the proposed annexation
99 policy plan and to provide input on it;

100 (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity
101 at least 14 days before the meeting;

102 (iv) accept and consider any additional written comments from affected entities until ten
103 days after the public meeting under Subsection (2)(a)(ii);

104 (v) before holding the public hearing required under Subsection (2)(a)(vi), make any
105 modifications to the proposed annexation policy plan the planning commission considers
106 appropriate, based on input provided at or within ten days after the public meeting under
107 Subsection (2)(a)(ii);

108 (vi) hold a public hearing on the proposed annexation policy plan;

109 (vii) provide reasonable public notice, including notice to each affected entity, of the
110 public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;

111 (viii) make any modifications to the proposed annexation policy plan the planning
112 commission considers appropriate, based on public input provided at the public hearing; and

113 (ix) submit its recommended annexation policy plan to the municipal legislative body; and

114 (b) the municipal legislative body shall:

115 (i) hold a public hearing on the annexation policy plan recommended by the planning
116 commission;

117 (ii) provide reasonable notice, including notice to each affected entity, of the public
118 hearing at least 14 days before the date of the hearing;

119 (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the
120 recommended annexation policy plan that the legislative body considers appropriate; and

121 (iv) adopt the recommended annexation policy plan, with or without modifications.

122 (3) Each annexation policy plan shall include:

123 (a) a map of the ~~h~~ [unincorporated] EXPANSION ~~h~~ area ~~h~~ [that the municipality anticipates

123a annexing in the

124 future] ~~h~~ , which may include territory located outside the county in which the municipality is

124a located;

125 (b) a statement of the specific criteria that will guide the municipality's decision whether
126 or not to grant future annexation petitions, addressing matters relevant to those criteria including:

127 (i) the character of the community;

128 (ii) the need for municipal services in developed and undeveloped unincorporated areas;

129 (iii) the municipality's plans for extension of municipal services;

130 (iv) how the services will be financed;

131 (v) an estimate of the tax consequences to residents both currently within the municipal

132 boundaries and in ~~h~~ [areas that are anticipated to be annexed into the municipality] THE EXPANSION

132a AREA ~~h~~ ; and

133 (vi) the interests of all affected entities;

134 (c) justification for excluding from the ~~h~~ EXPANSION ~~h~~ area ~~h~~ [covered by the annexation

134a policy plan] ~~h~~ any area

135 containing urban development within 1/2 mile of the municipality's boundary; and

136 (d) a statement addressing any comments made by affected entities at or within ten days
137 after the public meeting under Subsection (2)(a)(ii).

138 (4) In developing, considering, and adopting an annexation policy plan, the planning
139 commission and municipal legislative body shall:

140 (a) attempt to avoid gaps between or overlaps with the ~~h~~ [annexation policy plans]

140a EXPANSION AREAS ~~h~~ of other

141 municipalities;

142 (b) consider population growth projections for the municipality and adjoining areas for the
143 next 20 years;

144 (c) consider current and projected costs of infrastructure, urban services, and public
145 facilities necessary:

146 (i) to facilitate full development of the area within the municipality; and

147 (ii) to expand the infrastructure, services, and facilities into the area being considered for
148 inclusion in the ~~h~~ [annexation policy plan] EXPANSION AREA ~~h~~ ;

149 (d) consider, in conjunction with the municipality's general plan, the need over the next
150 20 years for additional land suitable for residential, commercial, and industrial development;

151 (e) consider the reasons for including agricultural lands, forests, recreational areas, and

152 wildlife management areas in the municipality; and

153 (f) be guided by the principles set forth in Subsection 10-2-403(5).

153a **§ (5) WITHIN 30 DAYS AFTER ADOPTING AN ANNEXATION POLICY PLAN, THE MUNICIPAL**
 153b **LEGISLATIVE BODY SHALL SUBMIT A COPY OF THE PLAN TO THE LEGISLATIVE BODY OF EACH**
 153c **COUNTY IN WHICH ANY OF THE MUNICIPALITY'S EXPANSION AREA IS LOCATED.**

154 ~~[(5)]~~ **(6) §** Nothing in this chapter may be construed to prohibit or restrict two or more
 155 municipalities in specified counties from negotiating and cooperating with respect to defining each
 156 municipality's § EXPANSION § area § [proposed for future annexation] § under an annexation
 156a policy plan.

157 Section 3. Section 10-2-402 is amended to read:

158 **10-2-402. Annexation -- Limitations.**

159 (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be
 160 annexed to the municipality as provided in this part.

161 (b) An unincorporated area may not be annexed to a municipality unless:

162 (i) it is a contiguous area;

163 (ii) it is contiguous to the municipality; ~~[and]~~

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

166 (iv) for an area located in a specified county § WITH RESPECT TO AN ANNEXATION THAT
 166a1 **OCCURS AFTER DECEMBER 31, 2002 § , the area is within the § PROPOSED ANNEXING**
 166a **MUNICIPALITY'S EXPANSION § area § [defined by the] .**
 167 **[annexation policy plan of the proposed annexing municipality.] §**

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

169a **§ (3) AN ANNEXATION UNDER THIS PART MAY NOT INCLUDE PART OF A PARCEL OF REAL**
 169b **PROPERTY AND EXCLUDE PART OF THAT SAME PARCEL UNLESS THE OWNER OF THAT PARCEL**
 169c **HAS SIGNED THE ANNEXATION PETITION UNDER SECTION 10-2-403.**

170 ~~[(3)]~~ **(4) §** A municipality may not annex an unincorporated area for the sole purpose of
 170a acquiring

171 municipal revenue or to retard the capacity of another municipality to annex the same or a related
 172 area unless the municipality has the ability and intent to benefit the annexed area by providing
 173 municipal services to the annexed area.

174 **§ [(4) A county legislative body may not approve urban development in the unincorporated**
 175 **portion of the county located, for a county of the first class, within 1/2 mile of a municipality or,**
 176 **for a specified county, within the area defined by a municipality's annexation policy plan, unless:**

177 ~~——~~ **(a) the owner of the property on which the urban development is proposed makes a good**
 178 **faith and diligent effort for at least six months to annex the property to the municipality;**

179 ~~——~~ **(b) legal or factual barriers prevent the annexation; and**

180 ~~——~~ **(c) at the end of the six-month period under Subsection (4)(a), the owner of the property] §**

181 ~~h~~ [~~notifies the county in writing of the legal or factual barriers that prevented annexation.~~]
181a (5) THE LEGISLATIVE BODY OF A SPECIFIED COUNTY MAY NOT APPROVE URBAN
181b DEVELOPMENT WITHIN A MUNICIPALITY'S EXPANSION AREA UNLESS:
181c (a) THE COUNTY NOTIFIES THE MUNICIPALITY OF THE PROPOSED DEVELOPMENT;
181d (b)(i) THE MUNICIPALITY CONSENTS IN WRITING TO THE DEVELOPMENT; OR
181e (ii)(A) WITHIN 90 DAYS AFTER THE COUNTY'S NOTIFICATION OF THE PROPOSED
181f DEVELOPMENT, THE MUNICIPALITY SUBMITS TO THE COUNTY A WRITTEN OBJECTION TO THE
181g COUNTY'S APPROVAL OF THE PROPOSED DEVELOPMENT; AND
181h (B) THE COUNTY RESPONDS IN WRITING TO THE MUNICIPALITY'S OBJECTIONS.
182 ~~(5)~~ ~~(6)~~ ~~h~~ (a) Except as provided in Subsection ~~h~~ ~~(5)~~ ~~(6)~~ ~~h~~ (b), no annexation petition
182a under this
182a part may

183 be filed with a municipality located within a county of the first class on or after ~~h [July 1]~~
 183a ~~APRIL 30 h~~ , 2001 until
 184 after July 1, 2002, and no municipality located in a county of the first class may accept an
 185 annexation petition under this part during that time.

186 (b) Notwithstanding Subsection ~~h [(5)] (6) h~~ (a) and subject to Subsection ~~h [(5)] (6) h~~ (c),
 186a an annexation
 187 petition may be filed with a municipality located within a county of the first class and a
 188 municipality located in a county of the first class may accept an annexation petition from July 1,
 189 2001 to July 1, 2002 if the petition:

190 (i) contains the signatures of the owners of private real property that:
 191 (A) is located within the area proposed for annexation;
 192 (B) covers ~~h [80%] 2/3 h~~ of the private land area within the area proposed for annexation; and
 193 (C) is equal in value to at least ~~h [80%] 2/3 h~~ of the value of all private real property within
 193a the area
 194 proposed for annexation; and

195 (ii) otherwise complies with the requirements for an annexation petition under this part.
 196 (c) If a protest is filed under Section 10-2-407 to an annexation petition filed under
 197 Subsection ~~h [(5)] (6) h~~ (b), the annexation proceeding shall immediately be terminated.

198 (d) Nothing in this Subsection ~~h [(5)] (6) h~~ may be construed to affect an annexation
 198a proceeding
 199 initiated by a petition filed before ~~h [July 1] APRIL 30 h~~ , 2001.

200 Section 4. Section **10-2-403** is amended to read:

201 **10-2-403. Annexation petition -- Requirements.**

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

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

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

207 (b) contain the signatures of:

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

209 [(+)] (A) is located within the area proposed for annexation;

210 [(+)] (A) (B) (I) subject to Subsection (2)(b)[(+)](i)(B)(II), covers a majority of the private
 211 land area within the area proposed for annexation; and

212 [(B)] (II) covers 100% of the private land area within the area proposed for annexation,
 213 if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture

214 Protection Area; and

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

217 (ii) if all the real property within the area proposed for annexation is ~~h~~ [publicly] ~~h~~ owned
217a ~~h~~ BY A PUBLIC ENTITY THAT IS NOT THE FEDERAL GOVERNMENT ~~h~~ , the
218 ~~h~~ [owners] OWNER ~~h~~ of all the publicly owned real property;

219 (c) be accompanied by an accurate ~~h~~ AND RECORDABLE ~~h~~ ~~[plat or]~~ map, prepared by a
219a licensed surveyor, of the
220 area proposed for annexation; and

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

223 (3) A petition under Subsection (1) may not propose the annexation of all or part of an area
224 proposed for annexation to a municipality in a previously filed petition that has not been denied,
225 rejected, or granted.

226 (4) A petition under Subsection (1) proposing the annexation of an area located in a county
227 of the first class may not propose the annexation of an area that includes some or all of an area
228 proposed to be incorporated in a request for a feasibility study under Section 10-2-103 or a petition
229 under Section 10-2-125 if:

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

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

233 (5) If practicable and feasible, the boundaries of an area proposed for annexation shall be
234 drawn;

235 (a) along the boundaries of existing special districts for sewer, water, and other services,
236 along the boundaries of school districts whose boundaries follow city boundaries or school districts
237 adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of
238 other taxing entities[?];

239 ~~[(a)]~~ (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type
240 services;

241 ~~[(b)]~~ (c) to facilitate the consolidation of overlapping functions of local government;

242 ~~[(c)]~~ (d) to promote the efficient delivery of services; and

243 ~~[(d)]~~ (e) to encourage the equitable distribution of community resources and obligations.

244 (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition

245 to:

- 246 (a) the clerk of the county in which the area proposed for annexation is located; and
- 247 (b) the chair of the planning commission of each township in which any part of the area
- 248 proposed for annexation is located.

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

250 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

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

252 [~~(A)~~] (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B),

253 deny a petition filed under Section 10-2-403; or

254 [~~(B)~~] (II) accept the petition for further consideration under this part.

255 (B) A municipal legislative body's failure to act to deny or accept a petition under

256 Subsection (1)(a)(i)(A) within 14 days after the filing of the petition shall be considered to be an

257 acceptance of the petition for further consideration under this part.

258 (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it shall,

259 within five days of the denial, mail written notice of the denial to the contact sponsor, the clerk of

260 the county in which the area proposed for annexation is located, and the chair of the planning

261 commission of each township in which any part of the area proposed for annexation is located.

262 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403

263 proposing to annex an area located in a county of the first class if:

264 (i) the petition contains the signatures of the owners of private real property that:

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

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

267 (C) is equal in value to at least 1/2 of the value of all private real property within the area

268 proposed for annexation;

269 (ii) the population in the area proposed for annexation does not exceed [~~10%~~] 5% of the

270 population of the proposed annexing municipality; [~~and~~]

271 (iii) the property tax rate for municipal services in the area proposed to be annexed is

272 higher than the property tax rate of the proposed annexing municipality; and

273 (iv) all annexations by the proposed annexing municipality during the year that the petition

274 was filed have not increased the municipality's population by more than 10%.

275 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)[~~(B)~~] (A)

276 or is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or
277 town clerk, as the case may be, shall, within 30 days of that acceptance:

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

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

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

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

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

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

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

302 Section 6. Section **10-2-406** is amended to read:

303 **10-2-406. Notice of certification -- Publishing and providing notice of petition.**

304 (1) After receipt of the notice of certification from the city recorder or town clerk under
305 Subsection 10-2-405(2)(b)(i), the municipal legislative body shall:

306 (a) (i) publish a notice at least once a week for three successive weeks, beginning no later

307 than ten days after receipt of the notice of certification, in a newspaper of general circulation
308 within:

309 (A) the area proposed for annexation; and

310 (B) the unincorporated area within 1/2 mile of the area proposed for annexation; or

311 (ii) if there is no newspaper of general circulation within those areas, post written notices
312 in conspicuous places within those areas that are most likely to give notice to residents within
313 those areas; and

314 (b) within 20 days of receipt of the notice of certification under Subsection

315 10-2-405(2)(b)(i), mail written notice to~~[-]~~ each affected entity.

316 [~~(i) the legislative body of the county in which the area proposed for annexation is~~
317 ~~located;~~]

318 [~~(ii) the board of each special district under Title 17A, Chapter 2, Independent Special~~
319 ~~Districts, whose boundaries include part or all of the area proposed for annexation;~~]

320 [~~(iii) the legislative body of each municipality whose boundaries are within 1/2 mile of~~
321 ~~the area proposed for annexation; and]~~

322 [~~(iv) each school district whose boundaries include part or all of the area proposed for~~
323 ~~annexation.~~]

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

325 (i) state that a petition has been filed with the municipality proposing the annexation of
326 an area to the municipality;

327 (ii) state the date of the municipal legislative body's receipt of the notice of certification
328 under Subsection 10-2-405(2)(b)(i);

329 (iii) describe the area proposed for annexation in the annexation petition;

330 (iv) state that the complete annexation petition is available for inspection and copying at
331 the office of the city recorder or town clerk;

332 (v) state in conspicuous and plain terms that the municipality may grant the petition and
333 annex the area described in the petition unless, within the time required under Subsection
334 10-2-407(2)(a)(i)(A) [~~or 10-2-407(2)(c), as the case may be~~], a written protest to the annexation
335 petition is filed with the commission and a copy of the protest delivered to the city recorder or
336 town clerk of the proposed annexing municipality; and

337 (vi) state the address of the commission or, if a commission has not yet been created in the

338 county, the county clerk, where a protest to the annexation petition may be filed.

339 (b) The statement required by Subsection (2)(a)(v) shall state the deadline for filing a
340 written protest in terms of the actual date rather than by reference to the statutory citation.

341 (c) In addition to the requirements under Subsection (2)(a), a notice under Subsection
342 (1)(a) for a proposed annexation of an area within a county of the first class shall include a
343 statement that a protest to the annexation petition may be filed with the commission by property
344 owners if it contains the signatures of the owners of private real property that:

345 (i) is located in the unincorporated area within 1/2 mile of the area proposed for
346 annexation;

347 (ii) covers at least 25% of the private land area located in the unincorporated area within
348 1/2 mile of the area proposed for annexation; and

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

351 Section 7. Section **10-2-407** is amended to read:

352 **10-2-407. Protest to annexation petition -- Requirements -- Disposition if no protest**
353 **-- Township planning commission recommendation.**

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

355 (i) the legislative body [~~of the county in which the area proposed for annexation is~~
356 ~~located;~~] or governing board of an affected entity; or

357 [~~(ii) the board of a special district whose boundaries include part or all of the area~~
358 ~~proposed for annexation;~~]

359 [~~(iii) the legislative body of a municipality whose boundaries are within 1/2 mile of the~~
360 ~~area proposed for annexation; or]~~

361 [~~(iv)~~] (ii) for a proposed annexation of an area within a county of the first class, the owners
362 of private real property that:

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

365 (B) covers at least 25% of the private land area located in the unincorporated area within
366 1/2 mile of the area proposed for annexation; and

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

369 (b) (i) [~~(A) Except as provided in Subsection (1)(b)(i)(B), a township~~] A planning
370 commission of a township located in a county of the first class may recommend to the legislative
371 body of the county in which the township is located that the county legislative body file a protest
372 against a proposed annexation under this part of an area located within the township.

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

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

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

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

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

389 (i) be filed:

390 (A) [~~except as provided in Subsections (2)(e) and (f);~~] no later than [~~60~~] 30 days after the
391 municipal legislative body's receipt of the notice of certification under Subsection
392 10-2-405(2)(b)(i); and

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

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

397 (ii) state each reason for the protest of the annexation petition and justification for the
398 protest under the standards established in this chapter;

399 (iii) contain other information that the commission by rule requires or that the party filing

400 the protest considers pertinent; and

401 (iv) the name and address of a contact person who is to receive notices sent by the
402 commission with respect to the protest proceedings.

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

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

408 (d) Each protest of a proposed annexation of an area located in a county of the first class
409 under Subsection (1)(a)[(iv)] (i)(D) shall, in addition to the requirements of Subsections (2)(a) and
410 (b):

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

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

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

419 ~~[(i) is undeveloped; and]~~

420 ~~[(ii) covers an area that is equivalent to less than 5% of the total land mass of all private~~
421 ~~real property within the municipality:]~~

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

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

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

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

429 (A) the municipal legislative body may, at its next regular meeting after expiration of the
430 deadline under Subsection (2)(a)(i)(A) ~~[or (e)]~~ and, for a proposed annexation of an area located

431 in a county of the first class, except as provided in Subsection (3)(a)(iii), deny the annexation
432 petition;

432a **h (B) FOR A PROPOSED ANNEXATION OF AN AREA LOCATED WITHIN A COUNTY OF THE**
432b **FIRST CLASS, THE MUNICIPAL LEGISLATIVE BODY MAY GRANT THE ANNEXATION PETITION AS**
432c **PROVIDED IN SUBSECTION (3)(b)(i)(B); h** or

433 **h [(B)] (C) h** if the municipal legislative body does not deny the annexation petition under
434 Subsection (3)(a)(i)(A) **h OR GRANT THE PETITION UNDER SUBSECTION (3)(b)(i)(B) h**, the
434a municipal legislative body may take no further action on the
435 annexation petition until after receipt of the commission's notice of its decision on the protest
436 under Section 10-2-416.

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

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

441 (B) the commission;

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

443 (D) if a protest was filed under Subsection (1)(a)[(iv)](ii) for a proposed annexation of an
444 area located in a county of the first class, the contact person.

445 (iii) A municipal legislative body may not deny an annexation petition proposing to annex
446 an area located in a county of the first class if:

447 (A) the petition contains the signatures of the owners of private real property that:

448 (I) is located within the area proposed for annexation;

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

450 (III) is equal in value to at least 1/2 of the value of all private real property within the area
451 proposed for annexation;

452 (B) the population in the area proposed for annexation does not exceed [~~10%~~] 5% of the
453 population of the proposed annexing municipality; [~~and~~]

454 (C) the property tax rate for municipal services in the area proposed to be annexed is
455 higher than the property tax rate of the proposed annexing municipality; and

456 (D) all annexations by the proposed annexing municipality during the year that the petition
457 was filed have not increased the municipality's population by more than 10%.

458 (b) (i) **h [If no timely protest is filed under this section, the] A h** municipal legislative body
458a may,

459 subject to Subsection (3)(b)(ii), grant **h [the] AN ANNEXATION h** petition and, by ordinance,

459a annex the area that is the

460 subject of the annexation petition **h** IF:

460a **(A) NO TIMELY PROTEST WAS FILED UNDER THIS SECTION; OR**

460b **(B)(I) THE AREA PROPOSED TO BE ANNEXED IS LOCATED IN A COUNTY OF THE FIRST**

460c **CLASS; AND**

460d **(II) h NOTWITHSTANDING ANY PROTESTS FILED UNDER THIS SECTION, h THE COUNTY**

460e **LEGISLATIVE BODY APPROVES THE ANNEXATION h** .

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

462 legislative body shall:

463 (A) hold a public hearing; and

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

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

466 municipality and the area proposed for annexation; or

467 (II) if there is no newspaper of general circulation in those areas, post written notices of

468 the hearing in conspicuous places within those areas that are most likely to give notice to residents

469 within those areas.

470 Section 8. Section **10-2-408** is amended to read:

471 **10-2-408. Denial of or granting the annexation petition.**

472 (1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2),

473 a municipal legislative body may:

474 (a) except as provided in Subsection (2) for a proposed annexation of an area located in

475 a county of the first class, deny the annexation petition; or

476 (b) if the commission approves the annexation, grant the annexation petition and, by

477 ordinance and consistent with the commission's decision, annex the area that is the subject of the

478 annexation petition.

479 (2) A municipal legislative body may not deny an annexation petition proposing to annex

480 an area located in a county of the first class if:

481 (a) the petition contains the signatures of the owners of private real property that:

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

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

484 (iii) is equal in value to at least 1/2 of the value of all private real property within the area

485 proposed for annexation;

486 (b) the population in the area proposed for annexation does not exceed [~~10%~~] 5% of the

487 population of the proposed annexing municipality; [~~and~~]

488 (c) the property tax rate for municipal services in the area proposed to be annexed is higher

489 than the property tax rate of the proposed annexing municipality; and

490 (d) all annexations by the proposed annexing municipality during the year that the petition

491 was filed have not increased the municipality's population by more than 10%.

492 Section 9. Section **10-2-409** is amended to read:

493 **10-2-409. Boundary commission -- Creation -- Members.**

494 (1) The legislative body of each county:

495 (a) may create a boundary commission on its own initiative at any time; and

496 (b) shall create a boundary commission within 30 days of the filing of a protest under

497 Section 10-2-407.

498 (2) ~~[(a)]~~ Each commission shall be composed of:499 ~~[(i)]~~ (a) in a county with two or more municipalities:500 ~~[(A)]~~ (i) two members who are elected county officers, appointed by:501 (A) (I) in a county of the first class operating under a form of government in which the

502 executive and legislative functions are separated, the county executive with the advice and consent

503 of the county legislative body; or

504 (II) in a county of the first class operating under a form of government in which the

505 executive and legislative functions of the governing body are not separated, the county legislative

506 body; or507 (B) in a specified county, the county legislative body;508 ~~[(B)]~~ (ii) two members who are elected municipal officers from separate municipalities

509 within the county, appointed by the municipal selection committee; and

510 ~~[(C)]~~ (iii) three members who are residents of the county, none of whom is a county or511 municipal officer, appointed by the four other members ~~[under Subsections (2)(a)(i)(A) and (B)]~~512 of the boundary commission; and513 ~~[(i)]~~ (b) in a county with only one municipality:514 ~~[(A)]~~ (i) two members who are county elected officers, appointed by~~[:]~~ the county515 legislative body;516 ~~[(I) in a county operating under a form of government in which the executive and~~517 ~~legislative functions are separated, the county executive with the advice and consent of the county~~518 ~~legislative body; or]~~519 ~~[(H) in a county operating under a form of government in which the executive and~~520 ~~legislative functions of the governing body are not separated, the county legislative body;]~~521 ~~[(B)]~~ (ii) one member who is a municipal officer, appointed by the ~~[municipal legislative]~~522 governing body of the municipality; and523 ~~[(C)]~~ (iii) two members who are residents of the county, neither of whom is a county or

524 municipal officer, appointed by the other three members [~~under Subsections (2)(a)(i)(A) and (B)~~
525 of the boundary commission.

526 [~~(b) For purposes of Subsection (2)(a)(i)(B), a majority of the municipal selection~~
527 ~~committee constitutes a quorum, and action of the municipal selection committee requires a~~
528 ~~majority vote of a quorum.]~~

529 (3) At the expiration of the term of each member appointed under this section, the
530 member's successor shall be appointed by the same body that appointed the member whose term
531 is expiring, as provided in this section.

532 [~~(4) Each boundary commission created before May 5, 1997, under Chapter 25, Laws of~~
533 ~~Utah 1979, shall continue in existence and thereafter be governed by the provisions of this part.]~~

534 Section 10. Section **10-2-409.5** is enacted to read:

535 **10-2-409.5. Municipal selection committee.**

536 (1) In each county in which there are two or more municipalities there shall be a municipal
537 selection committee consisting of the mayor of each municipality.

538 (2) A majority of the members of the municipal selection committee constitutes a quorum.

539 (3) The municipal selection committee shall appoint each municipal member of the county
540 boundary commission under Subsection 10-2-409(2)(a)(iii) and fill each vacancy in that position
541 as it occurs.

542 Section 11. Section **10-2-410** is amended to read:

543 **10-2-410. Boundary commission member terms -- Staggered terms -- Chair --**

544 **Quorum -- Vacancy.**

545 (1) Except as provided in Subsection (2), the term of each member of a boundary
546 commission is four years and begins and expires the first Monday in January of the applicable year.

547 (2) Notwithstanding Subsection (1), the terms of the first members of a commission shall
548 be staggered by lot so that:

549 (a) on a seven-member commission, the term of one member is approximately one year,
550 the term of two members is approximately two years, the term of two members is approximately
551 three years, and the term of two members is approximately four years; and

552 (b) on a five-member commission, the term of two members is approximately two years
553 and the term of the other three members is approximately four years.

554 (3) (a) The members of each boundary commission shall elect as chair a person from their

555 number whose term on the boundary commission does not expire for at least two years.

556 (b) The term of a boundary commission chair is two years.

557 (4) A majority of the commission constitutes a quorum, and commission action requires
558 a majority vote of [~~a quorum~~] the commission.

559 (5) Each vacancy on a commission of a member or an alternate member shall be filled for
560 the remaining unexpired term of the vacating member by the body that appointed the vacating
561 member under Section 10-2-409.

562 Section 12. Section **10-2-411** is amended to read:

563 **10-2-411. Disqualification of commission member -- Alternate member.**

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

566 (a) for a proposed annexation of an area located within a county of the first class:

567 (i) within the area proposed for annexation in a petition that is the subject of the protest;

568 or

569 [~~(b)~~] (ii) that is in the unincorporated area within 1/2 mile of the area proposed for
570 annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(a)[~~(iv)~~] (i)(D);

571 or

572 (b) for a proposed annexation of an area located in a specified county, within the area
573 proposed for annexation.

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

577 Section 13. Section **10-2-412** is amended to read:

578 **10-2-412. Boundary commission authority -- Expenses -- Records.**

579 (1) The boundary commission for each county shall hear and decide, according to the
580 provisions of this part, each protest filed under Section 10-2-407, with respect to an area that is
581 located within that county.

582 (2) A boundary commission may:

583 (a) adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;

584 (b) authorize a member of the commission to administer oaths if necessary in the

585 performance of the commission's duties;

586 (c) employ staff personnel and professional or consulting services reasonably necessary
587 to enable the commission to carry out its duties; and

588 (d) incur reasonable and necessary expenses to enable the commission to carry out its
589 duties.

590 (3) The legislative body of each county shall, with respect to the boundary commission in
591 that county:

592 (a) furnish the commission necessary quarters, equipment, and supplies;

593 (b) pay necessary operating expenses incurred by the commission; and

594 (c) reimburse the reasonable and necessary expenses incurred by each member appointed
595 under Subsection 10-2-409(2)(a)~~[(i)(C)]~~(iii) or ~~[(ii)(C)]~~ (b)(iii), unless otherwise provided by
596 interlocal agreement.

597 (4) Each county or municipal legislative body shall reimburse the reasonable and necessary
598 expenses incurred by a commission member who is an elected county or municipal officer,
599 respectively.

600 (5) Records, information, and other relevant materials necessary to enable the commission
601 to carry out its duties shall, upon request by the commission, be furnished to the boundary
602 commission by the personnel, employees, and officers of:

603 (a) for a proposed annexation of an area located in a county of the first class:

604 (i) each county and special district whose boundaries include an area that is the subject of
605 a protest under the commission's consideration; and

606 ~~[(b)]~~ (ii) each municipality whose boundaries may be affected by action of the boundary
607 commission; or

608 (b) for a proposed annexation of an area located in a specified county, each affected entity:

609 (i) whose boundaries include any part of the area proposed for annexation; or

610 (ii) that may be affected by action of the boundary commission.

611 Section 14. Section **10-2-413** is amended to read:

612 **10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility**
613 **study.**

614 (1) (a) ~~Unless~~ For a proposed annexation of an area located in a county of the first class,
615 unless a proposed annexing municipality denies an annexation petition under Subsection

616 10-2-407(3)(a)(i)(A) **h OR GRANTS AN ANNEXATION PETITION UNDER SUBSECTION**

616a **10-2-407(3)(b)(i)(B) h** and except as provided in Subsection (1)(b), the commission shall choose and

617 engage a feasibility consultant within 45 days of:

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

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

621 (b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study
622 with respect to a [~~proposed~~] petition that proposes the annexation of an area that [~~meets the criteria~~
623 ~~of Subsection 10-2-407(2)(c)~~]:

624 (i) is undeveloped; and

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

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

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

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

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

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

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

639 (ii) the geography, geology, and topography of and natural boundaries within the area
640 proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a
641 municipality with boundaries within 1/2 mile of the area proposed for annexation, that
642 municipality;

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

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

647 (v) the fiscal impact of the proposed annexation on the remaining unincorporated area,

648 other municipalities, special districts, school districts, and other governmental entities;

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

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

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

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

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

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

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

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

669 (xiv) the method of providing and the entity that has provided municipal-type services in
670 the past to the area proposed for incorporation and the feasibility of municipal-type services being
671 provided by the proposed annexing municipality; and

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

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

678 (c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the

679 level and quality of governmental services that will be provided to the area proposed for
680 annexation in the future is essentially comparable to the level and quality of governmental services
681 being provided within the proposed annexing municipality at the time of the feasibility study.

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

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

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

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

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

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

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

694 (5) If the results of the feasibility study do not meet the requirements of Subsection
695 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations
696 as to how the boundaries of the area proposed for annexation may be altered so that the
697 requirements of Subsection 10-2-416(3) may be met.

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

701 (b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners
702 under Subsection 10-2-407(1)(a)~~(iv)~~(ii), the county in which the area proposed for annexation
703 shall pay the owners' share of the feasibility consultant's fees and expenses.

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

707 Section 15. Section **10-2-414** is amended to read:

708 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

709 (1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an

710 area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3),
711 the sponsors of the annexation petition may, within 45 days of the feasibility consultant's
712 submission of the results of the study, file with the city recorder or town clerk of the proposed
713 annexing municipality a modified annexation petition altering the boundaries of the proposed
714 annexation.

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

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

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

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

- 727 (i) the commission;
- 728 (ii) each entity that filed a protest to the annexation petition; and
- 729 (iii) if a protest was filed under Subsection 10-2-407(1)(a)~~(iv)~~(ii), the contact person.

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

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

740 (3) Within ten days of the commission's receipt of the notice under Subsection (2)(b), the

741 commission shall engage the feasibility consultant that conducted the feasibility study to
 742 supplement the feasibility study to take into account the information in the modified annexation
 743 petition that was not included in the original annexation petition.

744 (4) The commission shall require the feasibility consultant to complete the supplemental
 745 feasibility study and to submit written results of the supplemental study to the commission no later
 746 than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility
 747 study.

748 Section 16. Section **10-2-415** is amended to read:

749 **10-2-415. Public hearing -- Notice.**

750 (1) (a)(i) If the results of the feasibility study or supplemental feasibility study meet the
 751 requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located
 752 in a county of the first class, the commission shall hold a public hearing within 30 days of receipt
 753 of the feasibility study or supplemental feasibility study results.

754 ~~[(2)]~~ (ii) At the hearing under Subsection (1)(a)(i), the commission shall:

755 ~~[(a)]~~ (A) require the feasibility consultant to present the results of the feasibility study and,
 756 if applicable, the supplemental feasibility study;

757 ~~[(b)]~~ (B) allow those present to ask questions of the feasibility consultant regarding the
 758 study results; and

759 ~~[(c)]~~ (C) allow those present to speak to the issue of annexation.

760 ~~[(3)(a)]~~ (iii)(A) The commission shall:

761 ~~[(i)]~~ (I) publish notice of ~~[the]~~ each hearing under Subsection (1)(a)(i) at least once a week
 762 for two successive weeks in a newspaper of general circulation within the area proposed for
 763 annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing
 764 municipality; and

765 ~~[(ii)]~~ (II) send written notice of the hearing to the municipal legislative body of the
 766 proposed annexing municipality, the contact sponsor on the annexation petition, each entity that
 767 filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(a)~~[(iv)]~~(ii), the contact
 768 person.

769 ~~[(b)]~~ (B) If there is no newspaper of general circulation within the areas described in
 770 Subsection ~~[(3)(a)(i)]~~ (1)(a)(iii)(A)(I), the commission shall give the notice required under that
 771 subsection by posting notices, at least seven days before the hearing, in conspicuous places within

772 those areas that are most likely to give notice of the hearing to the residents of those areas.

773 ~~[(c)]~~ (C) The notices under Subsections ~~[(3)(a) and (b)]~~ (1)(a)(iii)(A) and (B) shall include
774 the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy
775 of the study is available for inspection and copying at the office of the commission.

776 (b) (i) Within 30 days after time under Subsection 10-2-407(2) for filing a protest has
777 expired with respect to a proposed annexation of an area located in a specified county, the
778 boundary commission shall hold a hearing on all protests that were filed with respect to the
779 proposed annexation.

780 (ii) (A) At least 14 days before the date of each hearing under Subsection (1)(b)(i), the
781 commission chair shall cause notice of the hearing to be published in a newspaper of general
782 circulation within the area proposed for annexation.

783 (B) Each notice under Subsection (1)(b)(ii)(A) shall:

784 (I) state the date, time, and place of the hearing;

785 (II) briefly summarize the nature of the protest; and

786 (III) state that a copy of the protest is on file at the commission's office.

787 (iii) The commission may continue a hearing under Subsection (1)(b)(i) from time to time,
788 but no continued hearing may be held later than 60 days after the original hearing date.

789 (iv) In considering protests, the commission shall consider whether the proposed
790 annexation:

791 (A) ~~h~~ [is substantially in compliance] **COMPLIES h** with the requirements of ~~h~~ [Subsection
791a ~~10-2-403(5)] SECTIONS 10-2-402 AND 10-2-403 h~~ and
792 the annexation policy plan of the proposed annexing municipality;

793 (B) conflicts with the annexation policy plan of another municipality; and

794 (C) if the proposed annexation includes urban development, will have an adverse tax
795 consequence on the remaining unincorporated area of the county.

796 ~~[(4)]~~ (2) (a) The commission shall record ~~[the]~~ each hearing under this section by
797 electronic means.

798 (b) A transcription of the recording under Subsection ~~[(4)]~~ (2)(a), the feasibility study, if
799 applicable, information received at the hearing, and the written decision of the commission shall
800 constitute the record of the hearing.

801 Section 17. Section **10-2-416** is amended to read:

802 **10-2-416. Commission decision -- Written decision.**

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

- 805 (a) approve the proposed annexation, either with or without conditions;
806 (b) make minor modifications to the proposed annexation and approve it, either with or
807 without conditions; or
808 (c) disapprove the proposed annexation.

809 (2) The commission shall issue a written decision on the proposed annexation within

809a ~~h [20]~~ **30** ~~h~~

810 days ~~of~~ after the conclusion of the hearing under ~~[Subsection 10-2-415(1)]~~ Section 10-2-415 and
811 shall send a copy of the decision to:

- 812 (a) the legislative body of the county in which the area proposed for annexation is located;
813 (b) the legislative body of the proposed annexing municipality;
814 (c) the contact person on the annexation petition;
815 (d) the contact person of each entity that filed a protest; and
816 (e) if a protest was filed under Subsection 10-2-407(1)(a)~~[(iv)]~~(ii) with respect to a
817 proposed annexation of an area located in a county of the first class, the contact person designated
818 in the protest.

819 (3) ~~[The]~~ Except for an annexation for which a feasibility study may not be required under
820 Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area
821 located within a county of the first class unless the results of the feasibility study under Section
822 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not
823 exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

824 Section 18. Section **10-2-421** is amended to read:

825 **10-2-421. Electric utility service in annexed area.**

826 (1) If the electric consumers of the area being annexed are receiving electric utility services
827 from sources other than the annexing municipality, the municipality may not, without the consent
828 of the electric utility, furnish its electric utility services to the electric consumers until the
829 municipality has reimbursed the electric utility company ~~[which]~~ that previously provided the
830 services for the ~~[fair-market]~~ value of those facilities dedicated to provide service to the annexed
831 area.

832 (2) If the annexing municipality and the electric utility cannot agree on the ~~[fair-market]~~
833 value, ~~[it shall be determined by]~~ the state court having jurisdiction shall determine the ~~h~~ **FAIR**

833a **MARKET** ~~h~~ value ~~h~~ [that] OF THOSE FACILITIES, AND ~~h~~

834 the municipality shall reimburse **h** THE FAIR MARKET VALUE AMOUNT, AS DETERMINED BY THE
 834a COURT, h to the electric utility company **h** [, which shall be the fair market] .
 835 [value of the facilities dedicated to provide service to the annexed area.] h

836 Section 19. Section **10-2-426** is amended to read:

837 **10-2-426. Division of municipal-type services revenues.**

838 (1) The legislative body of ~~[the]~~ each county of the first class in which an area proposed
 839 for annexation under this part is located shall, until the date of annexation, continue:

840 (a) to levy and collect ad valorem property tax and other revenues from or pertaining to
 841 the area; and

842 (b) except as otherwise agreed by the county legislative body and the municipal legislative
 843 body, to provide the same services to the area proposed for annexation as the county provided
 844 before the commencement of the annexation proceedings.

845 (2) (a) The legislative body of ~~[the]~~ each county of the first class in which an area proposed
 846 for annexation is located shall, after annexation, share pro rata with the annexing municipality the
 847 taxes and service charges or fees levied and collected by the county under Section 17-34-3 during
 848 the year of the annexation if and to the extent that the annexing municipality provides, by itself or
 849 by contract, the same services for which the county levied and collected the taxes and service
 850 charges or fees.

851 (b) The pro rata allocation of taxes under Subsection (2)(a) shall be based on the date of
 852 annexation, and the pro rata allocation of service charges and fees shall be based on the proportion
 853 of services related to the service charges and fees that remain to be rendered after annexation.

854 **Section 20. Repealer.**

855 This act repeals:

856 Section **10-2-404, Certain annexation petitions invalid -- Certain petitions considered**
 857 **filed on May 5, 1997 -- Signatures on invalid petitions -- Special requirements for certain**
 858 **petitions.**

Legislative Review Note
as of 2-12-01 2:58 PM

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

Office of Legislative Research and General Counsel