

**ANNEXATIONS IN COUNTIES OF THE
FIRST CLASS
2002 GENERAL SESSION
STATE OF UTAH**

Sponsor: L. Steven Poulton

This act modifies the Utah Municipal Code by amending provisions relating to annexation. The act requires maps showing potential expansion areas for municipalities in counties of the first class to be presented to the Legislative Management Committee. The act limits forced annexations to those areas within a municipality's expansion area and amends the definition of expansion area with respect to municipalities in first class counties.

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

AMENDS:

10-2-401, as last amended by Chapter 206, Laws of Utah 2001

10-2-405, as last amended by Chapter 206, Laws of Utah 2001

10-2-407, as last amended by Chapter 206, Laws of Utah 2001

10-2-408, as last amended by Chapter 206, Laws of Utah 2001

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

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

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

(1) As used in this part:

(a) "Affected entity" means:

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

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

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

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

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



28 annexation.

29 (b) "Annexation petition" means a petition under Section 10-2-403 proposing the
30 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the
31 municipality.

32 (c) "Commission" means a boundary commission established under Section 10-2-409 for
33 the county in which the property that is proposed for annexation is located.

34 (d) (i) "Expansion area" means:

35 (A) for a municipality in a specified county, the unincorporated area that is identified in
36 an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates
37 annexing in the future[-]; or

38 (B) for a municipality in a county of the first class, the unincorporated area that is identified
39 as that municipality's expansion area on the official map presented by each county of the first class
40 to the Legislative Management Committee in accordance with the provisions of H.B. 155 (2001
41 General Session) in an official meeting of the Legislative Management Committee on or before
42 April 30, 2002.

43 (ii) Expansion areas of municipalities within the same county of the first class may overlap
44 with each other.

45 (e) "Feasibility consultant" means a person or firm with expertise in the processes and
46 economics of local government.

47 (f) "Municipal selection committee" means a committee in each county composed of the
48 mayor of each municipality within that county.

49 (g) "Private," with respect to real property, means not owned by the United States or any
50 agency of the federal government, the state, a county, a municipality, a school district, a special
51 district under Title 17A, Special Districts, or any other political subdivision or governmental entity
52 of the state.

53 (h) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

54 (i) "Urban development" means:

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

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

59 (2) For purposes of this part:

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

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

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

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

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

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

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

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

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

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

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

82 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

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

84 (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny a
85 petition filed under Section 10-2-403; or

86 (II) accept the petition for further consideration under this part.

87 (B) A municipal legislative body's failure to act to deny or accept a petition under
88 Subsection (1)(a)(i)(A) within 14 days after the filing of the petition shall be considered to be an
89 acceptance of the petition for further consideration under this part.

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

94 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403
95 proposing to annex an area located in a county of the first class if:

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

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

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

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

101 (ii) the population in the area proposed for annexation does not exceed 10% of the
102 population of the proposed annexing municipality;

103 (iii) the property tax rate for municipal services in the area proposed to be annexed is
104 higher than the property tax rate of the proposed annexing municipality; ~~and~~

105 (iv) all annexations by the proposed annexing municipality during the year that the petition
106 was filed have not increased the municipality's population by more than 20%[-]; and

107 (v) for petitions filed on or after May 6, 2002, the area proposed for annexation is within
108 the municipality's expansion area.

109 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) (A) or
110 is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or town
111 clerk, as the case may be, shall, within 30 days of that acceptance:

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

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

120 (ii) if the city recorder or town clerk determines that the petition fails to meet any of those

121 requirements, reject the petition and mail or deliver written notification of the rejection and the
122 reasons for the rejection to the municipal legislative body, the contact sponsor, the county
123 legislative body, and the chair of the planning commission of each township in which any part of
124 the area proposed for annexation is located.

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

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

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

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

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

137 **10-2-407. Protest to annexation petition -- Township planning commission**
138 **recommendation -- Petition requirements -- Disposition of petition if no protest filed.**

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

140 (i) the legislative body or governing board of an affected entity; or

141 (ii) for a proposed annexation of an area within a county of the first class, the owners of
142 private real property that:

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

145 (B) covers at least 25% of the private land area located in the unincorporated area within
146 1/2 mile of the area proposed for annexation; and

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

149 (b) (i) A planning commission of a township located in a county of the first class may
150 recommend to the legislative body of the county in which the township is located that the county
151 legislative body file a protest against a proposed annexation under this part of an area located

152 within the township.

153 (ii) (A) The township planning commission shall communicate each recommendation
154 under Subsection (1)(b)(i) in writing to the county legislative body within 30 days of the city
155 recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)(b)(i).

156 (B) At the time the recommendation is communicated to the county legislative body under
157 Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy of the
158 recommendation to the legislative body of the proposed annexing municipality and to the contact
159 sponsor.

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

161 (i) be filed:

162 (A) no later than 30 days after the municipal legislative body's receipt of the notice of
163 certification under Subsection 10-2-405(2)(b)(i); and

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

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

168 (ii) state each reason for the protest of the annexation petition and, if the area proposed to
169 be annexed is located in a specified county, justification for the protest under the standards
170 established in this chapter;

171 (iii) if the area proposed to be annexed is located in a specified county, contain other
172 information that the commission by rule requires or that the party filing the protest considers
173 pertinent; and

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

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

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

181 (d) Each protest of a proposed annexation of an area located in a county of the first class
182 under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and (b):

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

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

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

188 (A) the municipal legislative body may, at its next regular meeting after expiration of the
189 deadline under Subsection (2)(a)(i)(A) and, for a proposed annexation of an area located in a
190 county of the first class, except as provided in Subsection (3)(a)(iii), deny the annexation petition;
191 or

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

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

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

200 (B) the commission;

201 (C) each entity that filed a protest; [~~and~~]

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

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

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

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

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

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

211 (B) the population in the area proposed for annexation does not exceed 10% of the
212 population of the proposed annexing municipality;

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

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

215 (D) all annexations by the proposed annexing municipality during the year that the petition
216 was filed have not increased the municipality's population by more than 20%[-]; and

217 (E) for petitions filed on or after May 6, 2002, the area proposed for annexation is within
218 the municipality's expansion area.

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

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

224 (A) hold a public hearing; and

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

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

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

231 Section 4. Section **10-2-408** is amended to read:

232 **10-2-408. Denial of or granting the annexation petition.**

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

235 (a) except as provided in Subsection (2) for a proposed annexation of an area located in
236 a county of the first class, deny the annexation petition; or

237 (b) if the commission approves the annexation, grant the annexation petition and, by
238 ordinance and consistent with the commission's decision, annex the area that is the subject of the
239 annexation petition.

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

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

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

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

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

247 (b) the population in the area proposed for annexation does not exceed 10% of the
248 population of the proposed annexing municipality;

249 (c) the property tax rate for municipal services in the area proposed to be annexed is higher
250 than the property tax rate of the proposed annexing municipality; [~~and~~]

251 (d) all annexations by the proposed annexing municipality during the year that the petition
252 was filed have not increased the municipality's population by more than 20%[-]; and

253 (e) for petitions filed on or after May 6, 2002, the area proposed for annexation is within
254 the municipality's expansion area.

Legislative Review Note
as of 3-6-02 11:33 AM

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

Office of Legislative Research and General Counsel