

1 ANNEXATION OF UNINCORPORATED COUNTY

2 ISLANDS INTO CITIES

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: Todd E. Kiser

6 This act modifies the Utah Municipal Code and authorizes a municipality to annex an
7 island of unincorporated territory within the municipality without an annexation petition
8 under certain circumstances. ⚭ THE ACT CLARIFIES THAT A MUNICIPAL ANNEXATION DOES NOT
8a AFFECT THE BOUNDARIES OF SPECIAL OR LOCAL DISTRICTS. ⚭ The act also makes technical
8b changes.

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

10 AMENDS:

11 10-2-418, as last amended by Chapter 361, Laws of Utah 1999

11a ⚭ ENACTS:

11b 10-2-428, Utah Code Annotated 1953 ⚭

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

13 Section 1. Section 10-2-418 is amended to read:

14 10-2-418. Annexation of an island or peninsula without a petition -- Notice --
15 Hearing.

16 (1) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an
17 unincorporated area under this section without an annexation petition if:

18 (i) (A) the area to be annexed consists of one or more unincorporated islands within or
19 unincorporated peninsulas contiguous to the municipality;

20 [(iv)] (B) the majority of each island or peninsula consists of residential or commercial
21 development;

22 [(iii)] (C) the area proposed for annexation requires the delivery of municipal-type
23 services; and

24 [(iv)] (D) the municipality has provided most or all of the municipal-type services to
25 the area for more than one year[-]; or

26 (ii) (A) the area to be annexed consists of one or more unincorporated islands within
27 the municipality, each of which has fewer than 500 residents; and



28 (B) the municipality has provided one or more municipal-type services to the area for
 29 at least one year.

30 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a
 31 portion of an island or peninsula under ~~§~~ **[f] this section [f] [Subsection (1)(a)(i)]** ~~§~~, leaving
 32 unincorporated the remainder of the unincorporated island or peninsula, if ~~§~~ **[f]** :

32a (i) ~~§~~ in adopting the

33 resolution under Subsection (2)(a)(i), the municipal legislative body determines that not
 34 annexing the entire unincorporated island or peninsula is in the municipality's best interest ~~§~~ ; **AND**

34a **(ii) FOR AN ANNEXATION OF ONE OR MORE UNINCORPORATED ISLANDS UNDER**
 34b **SUBSECTION (1)(a)(ii), THE ENTIRE ISLAND OF UNINCORPORATED AREA, OF WHICH A PORTION IS**
 34c **BEING ANNEXED, COMPLIES WITH THE REQUIREMENT OF SUBSECTION (1)(a)(ii)(A) RELATING TO**
 34d **THE NUMBER OF RESIDENTS** ~~§~~ .

35 (2) (a) The ~~municipal~~ legislative body of [a] each municipality intending to annex an
 36 area under this section shall:

37 (i) adopt a resolution indicating the municipal legislative body's intent to annex the
 38 area, describing the area proposed to be annexed;

39 (ii) (A) publish notice at least once a week for three successive weeks in a newspaper
 40 of general circulation within the municipality and the area proposed for annexation; or

41 (B) if there is no newspaper of general circulation in the areas described in Subsection
 42 (2)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are
 43 most likely to give notice to the residents of those areas;

44 (iii) send written notice to the board of each special district whose boundaries contain
 45 some or all of the area proposed for annexation and to the legislative body of the county in
 46 which the area proposed for annexation is located; and

47 (iv) hold a public hearing on the proposed annexation no earlier than 60 days after the
 48 adoption of the resolution under Subsection (2)(a)(i).

49 (b) ~~The~~ ~~§~~ ~~(f)]~~ ~~§~~ Each notice under Subsections (2)(a)(ii) and (iii) shall:

50 ~~§~~ ~~[f] (i) [f] [(A)]~~ ~~§~~ state that the municipal legislative body has adopted a resolution
 50a indicating its

51 intent to annex the area proposed for annexation;

52 ~~§~~ ~~[f] (ii) [f] [(B)]~~ ~~§~~ state the date, time, and place of the public hearing under Subsection
 53 (2)(a)(iv);

54 ~~§~~ ~~[f] (iii) [f] [(C)]~~ ~~§~~ describe the area proposed for annexation; and

55 ~~§~~ ~~[f] (iv) [f] [(D)]~~ ~~§~~ state in conspicuous and plain terms that the municipal legislative

55a body will
56 annex the area unless, at or before the public hearing under Subsection (2)(a)(iv), written
57 protests to the annexation are filed by the owners of private real property that:
58 ~~h~~ [f] (A) [f] [~~h~~] ~~h~~ is located within the area proposed for annexation;



59 ~~h~~ [F] (B) [3] [~~HH~~] ~~h~~ covers a majority of the total private land area within the entire area
59a proposed
60 for annexation; and

61 ~~h~~ [F] (C) [3] [~~HH~~] ~~h~~ is equal in value to at least 1/2 the value of all private real
61a property within
62 the entire area proposed for annexation.

63 ~~h~~ [(ii) In addition to the requirements under Subsection (2)(b)(i), each notice under
64 Subsection (2)(a)(iii) to a county legislative body shall notify the county legislative body that it
65 may file an objection under Subsection (2)(d).] ~~h~~

66 (c) The first publication of the notice required under Subsection (2)(a)(ii)(A) shall be
67 within 14 days of the municipal legislative body's adoption of a resolution under Subsection
68 (2)(a)(i).

69 ~~h~~ [(d) (i) With respect to an annexation proposed under Subsection (1)(a)(ii), the
70 legislative body of a county in which an area proposed for annexation is located may file with
71 the legislative body of the municipality intending to annex the area an objection to the
72 proposed annexation.

73 ~~— (ii) Each objection under Subsection (2)(d)(i) shall:~~
74 ~~— (A) be filed within 30 days after notice under Subsection (2)(a)(iii) is sent to the county~~
75 ~~legislative body; and~~

76 ~~— (B) explain the reasons for the county legislative body's objection to the proposed~~
77 ~~annexation.~~

78 ~~— (iii) In determining whether to adopt an ordinance under Subsection (3) annexing an~~
79 ~~area proposed for annexation, the municipal legislative body shall consider each objection filed~~
80 ~~by a county legislative body under this Subsection (2)(d).]~~ ~~h~~

81 (3) ~~h~~ (a) ~~h~~ Upon conclusion of the public hearing under Subsection (2)(a)(iv) ~~h~~ **AND**
81a **SUBJECT TO SUBSECTION (3)(b) ~~h~~**, the municipal
82 legislative body [~~shall~~] may adopt an ordinance annexing the area proposed for annexation
83 under this section unless, at or before the hearing, written protests to the annexation have been
84 filed with the city recorder or town clerk, as the case may be, by the owners of private real
85 property that:

86 ~~h~~ [(a) (i) ~~h~~ is located within the area proposed for annexation;

87 ~~h~~ [(b) (ii) ~~h~~ covers ~~h~~ ;

87a ~~h~~ [(+) (A) ~~h~~ **FOR A PROPOSED ANNEXATION UNDER SUBSECTION (1)(a)(i), ~~h~~** a majority of
87a1 the total
87b private land area within the entire area proposed for

88 annexation; ~~h~~ **[and]** OR

88a ~~h~~ **[(ii)] (B) h** FOR A PROPOSED ANNEXATION UNDER SUBSECTION (1)(a)(ii), 10% OF THE TOTAL
88b PRIVATE LAND AREA WITHIN THE ISLAND OF UNINCORPORATED AREA THAT IS PROPOSED FOR
88c ANNEXATION; AND h

89 ~~h~~ **[(c)] (iii) h** is equal in value to at least ~~h~~ **h** :

89a ~~h~~ **[(i)] (A) h** FOR A PROPOSED ANNEXATION UNDER SUBSECTION (1)(a)(i), h 1/2 the value
89a1 of all
89b private real property within the entire

90 area proposed for annexation **h** ; OR
 90a **h** [(iii)] **(B) h** FOR A PROPOSED ANNEXATION UNDER SUBSECTION (1)(a)(ii), 10% OF THE
 90a1 VALUE OF
 90b ALL PRIVATE REAL PROPERTY WITHIN THE ISLAND OF UNINCORPORATED AREA THAT IS
 90c PROPOSED FOR ANNEXATION h .

90d **h** (b) A MUNICIPAL LEGISLATIVE BODY MAY NOT ADOPT AN ORDINANCE ANNEXING AN
 90e AREA PROPOSED FOR ANNEXATION UNDER SUBSECTION (1)(a)(ii) UNLESS THE LEGISLATIVE
 90f BODY OF THE COUNTY IN WHICH THE AREA PROPOSED FOR ANNEXATION HAS PREVIOUSLY
 90g ADOPTED A RESOLUTION APPROVING THE ANNEXATION. h

91 (4) **h** (a) h If protests are timely filed that comply with Subsection (3), the municipal
 92 legislative body may not adopt an ordinance annexing the area proposed for annexation, and
 93 the annexation proceedings under this section shall be considered terminated.

93a **h** (b) SUBSECTION (4)(a) MAY NOT BE CONSTRUED TO PROHIBIT THE MUNICIPAL
 93b LEGISLATIVE BODY FROM EXCLUDING FROM A PROPOSED ANNEXATION UNDER SUBSECTION
 93c (1)(a)(ii) THE PROPERTY WITHIN AN UNINCORPORATED ISLAND REGARDING WHICH PROTESTS
 93d HAVE BEEN FILED AND PROCEEDING UNDER SUBSECTION (1)(b) TO ANNEX SOME OR ALL OF THE
 93e REMAINING PORTION OF THE UNINCORPORATED ISLAND. h

93f **h** Section 2. Section 10-2-428 is enacted to read:
 93g 10-2-428. Annexation has no effect on district boundaries.
 93h THE ANNEXATION OF AN UNINCORPORATED AREA BY A MUNICIPALITY DOES NOT AFFECT
 93i THE BOUNDARIES OF AN INDEPENDENT SPECIAL DISTRICT UNDER TITLE 17A, CHAPTER 2,
 93j INDEPENDENT SPECIAL DISTRICTS OR A LOCAL DISTRICT UNDER TITLE 17B, CHAPTER 2, LOCAL
 93k DISTRICTS. h

Legislative Review Note
 as of 1-9-03 5:06 PM

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

Office of Legislative Research and General Counsel

Fiscal Note**Annexation of Unincorporated County Islands into Cities***27-Jan-03***Bill Number HB0095***11:28 AM*

State Impact

No fiscal impact.

Individual and Business ImpactNo fiscal impact.

Office of the Legislative Fiscal Analyst