

**ANNEXATION OF UNINCORPORATED COUNTY
ISLANDS INTO CITIES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Todd E. Kiser

This act modifies the Utah Municipal Code and authorizes a municipality to annex an island of unincorporated territory within the municipality without an annexation petition under certain circumstances. The act clarifies that a municipal annexation does not affect the boundaries of special or local districts. The act also makes technical changes.

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

AMENDS:

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

ENACTS:

10-2-428, Utah Code Annotated 1953

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

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

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

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

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

~~[(ii)]~~ (B) the majority of each island or peninsula consists of residential or commercial development;

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

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

(ii) (A) the area to be annexed consists of one or more unincorporated islands within

the municipality, each of which has fewer than 500 residents; and

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

(b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an island or peninsula under this section, leaving unincorporated the remainder of the unincorporated island or peninsula, if[;]:

(i) in adopting the resolution under Subsection (2)(a)(i), the municipal legislative body determines that not annexing the entire unincorporated island or peninsula is in the municipality's best interest[-]; and

(ii) for an annexation of one or more unincorporated islands under Subsection (1)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (1)(a)(ii)(A) relating to the number of residents.

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

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

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

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

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

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

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

(i) state that the municipal legislative body has adopted a resolution indicating its intent

to annex the area proposed for annexation;

(ii) state the date, time, and place of the public hearing under Subsection (2)(a)(iv);

(iii) describe the area proposed for annexation; and

(iv) state in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing under Subsection (2)(a)(iv), written protests to the annexation are filed by the owners of private real property that:

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

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

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

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

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

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

~~[(b)]~~ (ii) covers:

(A) for a proposed annexation under Subsection (1)(a)(i), a majority of the total private land area within the entire area proposed for annexation; ~~[and]~~ or

(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the total private land area within the island of unincorporated area that is proposed for annexation; and

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

(A) for a proposed annexation under Subsection (1)(a)(i), 1/2 the value of all private real property within the entire area proposed for annexation[-]; or

(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the value of all private real property within the island of unincorporated area that is proposed for annexation.

(b) A municipal legislative body may not adopt an ordinance annexing an area proposed for annexation under Subsection (1)(a)(ii) unless the legislative body of the county in which the area proposed for annexation has previously adopted a resolution approving the annexation.

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

(b) Subsection (4)(a) may not be construed to prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (1)(a)(ii) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (1)(b) to annex some or all of the remaining portion of the unincorporated island.

Section 2. Section **10-2-428** is enacted to read:

10-2-428. Annexation has no effect on boundaries of independent special district or local district.

The annexation of an unincorporated area by a municipality does not affect the boundaries of an independent special district under Title 17A, Chapter 2, Independent Special Districts, or a local district under Title 17B, Chapter 2, Local Districts.