

**INCORPORATION OF CITIES**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brad L. Dee**

**This act modifies the Utah Municipal Code to expand application of a provision allowing an owner of property to exclude that property from a proposed municipal incorporation so that the provision applies to proposed incorporations in counties of the second class.**

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

AMENDS:

**10-2-104**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

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

Section 1. Section **10-2-104** is amended to read:

**10-2-104. Notice to owner of more than 1% of property -- Exclusion of property from proposed boundaries.**

(1) Within seven calendar days of the date on which a request under Section 10-2-103 is filed, the county clerk shall notify of the proposed incorporation each owner of real property owning more than 1% of the assessed value of all property in the proposed incorporation boundaries.

(2) (a) A property owner within the boundaries of a proposed municipality, owning more than 1% of the assessed value of all property in the proposed incorporation boundaries, may exclude all or part of the property owner's property from the proposed boundaries by filing a Notice of Exclusion within ten calendar days of receiving the clerk's notice under Subsection (1).

(b) The county legislative body shall exclude the property identified in the Notice of Exclusion from the proposed boundaries only if the property:

(i) is currently nonurban;

(ii) does not or will not require municipal provision of municipal-type services



- 28 including:
- 29 (A) culinary or irrigation water;
- 30 (B) sewage collection or treatment;
- 31 (C) storm drainage or flood control;
- 32 (D) recreational facilities or parks;
- 33 (E) electric generation or transportation;
- 34 (F) construction or maintenance of local streets and roads;
- 35 (G) curb and gutter or sidewalk maintenance;
- 36 (H) garbage and refuse collection; and
- 37 (I) street lighting; and
- 38 (iii) exclusion will not leave an unincorporated island within the proposed
- 39 municipality.
- 40 (3) This section applies only to counties of the first or second class.
- 41 (4) If the county legislative body excludes property from the proposed boundaries
- 42 under Subsection (2)(b), the county legislative body shall, within five days of the exclusion,
- 43 send written notice of its action to the contact sponsor.

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**Legislative Review Note**  
**as of 1-29-03 1:34 PM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Incorporation of Cities***05-Feb-03***Bill Number HB0158***11:06 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

Any fiscal impact will be dependent on the circumstances of individual property owners.

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**Office of the Legislative Fiscal Analyst**