

Representative Craig A. Frank proposes the following substitute bill:

DISCONNECTING TERRITORY FROM A

MUNICIPALITY

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig A. Frank

LONG TITLE

General Description:

This bill modifies provisions related to the disconnection of territory from one municipality and connecting it to another.

Highlighted Provisions:

This bill:

- ▶ amends a provision relating to the adjustment of a common boundary between municipalities to add a provision that:
 - authorizes a municipality seeking to adjust a common boundary with another municipality to request the other municipality to adjust the common boundary;
 - requires the municipalities to negotiate in good faith;
 - authorizes the requesting municipality to file a petition with the boundary commission requesting the boundary adjustment; and
 - authorizes the boundary commission to allow the boundary adjustment under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-2-409**, as last amended by Chapter 206, Laws of Utah 2001

29 **10-2-412**, as last amended by Chapter 206, Laws of Utah 2001

30 **10-2-419**, as last amended by Chapter 257, Laws of Utah 2003

31

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

33 Section 1. Section **10-2-409** is amended to read:

34 **10-2-409. Boundary commission -- Creation -- Members.**

35 (1) The legislative body of each county:

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

37 (b) shall create a boundary commission within 30 days ~~[of]~~ after:

38 (i) the filing of a protest under Section 10-2-407[-]; or

39 (ii) the filing of a petition for a boundary adjustment under Subsection 10-2-419(5).

40 (2) Each commission shall be composed of:

41 (a) in a county with two or more municipalities:

42 (i) two members who are elected county officers, appointed by:

43 (A) (I) in a county of the first class operating under a form of government in which the
44 executive and legislative functions are separated, the county executive with the advice and
45 consent of the county legislative body; or

46 (II) in a county of the first class operating under a form of government in which the
47 executive and legislative functions of the governing body are not separated, the county
48 legislative body; or

49 (B) in a specified county, the county legislative body;

50 (ii) two members who are elected municipal officers from separate municipalities
51 within the county, appointed by the municipal selection committee; and

52 (iii) three members who are residents of the county, none of whom is a county or
53 municipal officer, appointed by the four other members of the boundary commission; and

54 (b) in a county with only one municipality:

55 (i) two members who are county elected officers, appointed by the county legislative
56 body;

57 (ii) one member who is a municipal officer, appointed by the governing body of the
58 municipality; and

59 (iii) two members who are residents of the county, neither of whom is a county or
60 municipal officer, appointed by the other three members of the boundary commission.

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

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

65 **10-2-412. Boundary commission authority -- Expenses -- Records.**

66 (1) The boundary commission for each county shall hear and decide, according to the
67 provisions of this part[-];

68 (a) each protest filed under Section 10-2-407, with respect to an area that is located
69 within that county[-]; and

70 (b) each petition for a boundary adjustment under Subsection 10-2-419(5), with respect
71 to an area that is located within that county.

72 (2) A boundary commission may:

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

75 (b) authorize a member of the commission to administer oaths if necessary in the
76 performance of the commission's duties;

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

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

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

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

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

85 (c) reimburse the reasonable and necessary expenses incurred by each member
86 appointed under Subsection 10-2-409(2)(a)(iii) or (b)(iii), unless otherwise provided by
87 interlocal agreement.

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

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

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

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

97 (ii) each municipality whose boundaries may be affected by action of the boundary
98 commission; or

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

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

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

103 Section 3. Section **10-2-419** is amended to read:

104 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

105 (1) The legislative bodies of two or more municipalities having common boundaries
106 may adjust their common boundaries only as provided in this section.

107 (2) (a) The legislative body of each municipality intending to adjust a boundary that is
108 common with another municipality shall:

109 (i) adopt a resolution indicating the intent of the municipal legislative body to adjust a
110 common boundary;

111 (ii) hold a public hearing on the proposed adjustment no less than 60 days after the
112 adoption of the resolution under Subsection (2)(a)(i); and

113 (iii) (A) publish notice at least once a week for three successive weeks in a newspaper
114 of general circulation within the municipality; or

115 (B) if there is no newspaper of general circulation within the municipality, post at least
116 one notice per 1,000 population in places within the municipality that are most likely to give
117 notice to residents of the municipality.

118 (b) The notice required under Subsection (2)(a)(iii) shall:

119 (i) state that the municipal legislative body has adopted a resolution indicating the
120 municipal legislative body's intent to adjust a boundary that the municipality has in common
121 with another municipality;

122 (ii) describe the area proposed to be adjusted;

123 (iii) state the date, time, and place of the public hearing required under Subsection
124 (2)(a)(ii);

125 (iv) state in conspicuous and plain terms that the municipal legislative body will adjust
126 the boundaries unless, at or before the public hearing under Subsection (2)(a)(ii), written
127 protests to the adjustment are filed by the owners of private real property that:

128 (A) is located within the area proposed for adjustment;

129 (B) covers at least 25% of the total private land area within the area proposed for
130 adjustment; and

131 (C) is equal in value to at least 15% of the value of all private real property within the
132 area proposed for adjustment; and

133 (v) state that the area that is the subject of the boundary adjustment will, because of the
134 boundary adjustment, be automatically annexed to a local district providing fire protection,
135 paramedic, and emergency services, as provided in Section 17B-2-515.5, if:

136 (A) the municipality to which the area is being added because of the boundary
137 adjustment is entirely within the boundaries of a local district:

138 (I) that provides fire protection, paramedic, and emergency services; and

139 (II) in the creation of which an election was not required because of Subsection
140 17B-2-214(3)(c); and

141 (B) the municipality from which the area is being taken because of the boundary
142 adjustment is not within the boundaries of the local district; and

143 (vi) state that the area proposed for annexation to the municipality will be
144 automatically withdrawn from a local district providing fire protection, paramedic, and
145 emergency services, as provided in Subsection 17B-2-601(2), if:

146 (A) the municipality to which the area is being added because of the boundary
147 adjustment is not within the boundaries of a local district:

148 (I) that provides fire protection, paramedic, and emergency services; and

149 (II) in the creation of which an election was not required because of Subsection

150 17B-2-214(3)(c); and

151 (B) the municipality from which the area is being taken because of the boundary
152 adjustment is entirely within the boundaries of the local district.

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

156 (3) Upon conclusion of the public hearing under Subsection (2)(a)(ii), the municipal
157 legislative body may adopt an ordinance adjusting the common boundary unless, at or before
158 the hearing under Subsection (2)(a)(ii), written protests to the adjustment have been filed with
159 the city recorder or town clerk, as the case may be, by the owners of private real property that:

160 (a) is located within the area proposed for adjustment;

161 (b) covers at least 25% of the total private land area within the area proposed for
162 adjustment; and

163 (c) is equal in value to at least 15% of the value of all private real property within the
164 area proposed for adjustment.

165 (4) An ordinance adopted under Subsection (3) becomes effective when each
166 municipality involved in the boundary adjustment has adopted an ordinance under Subsection
167 (3).

168 (5) (a) The legislative body of a municipality that has a common boundary with another
169 municipality may request the legislative body of the other municipality to adjust the
170 municipalities' common boundary.

171 (b) Each municipality that receives a request under Subsection (5)(a) and each
172 municipality that makes a request shall negotiate together in good faith to reach a consensus on
173 acceptable terms and conditions of a mutually beneficial boundary adjustment.

174 (c) If, after the good faith negotiations, the municipalities do not reach a consensus on
175 the boundary adjustment, the legislative body of the requesting municipality may submit to the
176 legislative body of the other municipality a written request for a decision approving or denying
177 the requested boundary adjustment.

178 (d) (i) No sooner than 45 days after submitting a written request under Subsection
179 (5)(c), a requesting municipality may file a petition requesting the boundary commission to
180 adjust the common boundary.

181 (ii) Each petition under Subsection (5)(d)(i) shall be filed with:

182 (A) in a county that has created a commission under Section 10-2-409, with the
183 commission; or

184 (B) in a county that has not created a commission, with the clerk of the county in which
185 the area that is the subject of the proposed boundary adjustment is located.

186 (iii) Each county clerk who receives a petition filed under Subsection (5)(d)(ii)(B)
187 shall:

188 (A) immediately notify the county legislative body of the petition; and

189 (B) deliver a copy of the petition to the city recorder of the other municipality.

190 (e) The commission shall grant a petition and adjust the common boundary as
191 requested if:

192 (i) the purposes of the boundary adjustment are consistent with the annexation policy
193 plan of the requesting municipality;

194 (ii) the land subject to the proposed boundary adjustment is entirely owned by the
195 requesting municipality; and

196 (iii) deed restrictions applicable to the land provide that, without the prior written
197 consent of the legislative body of the other municipality:

198 (A) the land will not be developed in a manner that is inconsistent with the valid land
199 use ordinances in effect on the date the requesting municipality adopts a resolution of intent or
200 takes other similar official action to adjust the common boundary; and

201 (B) if sold, the land will not be converted to a private use that is inconsistent with the
202 use of the land that exists at the time of the boundary adjustment.

203 **Section 4. Effective date.**

204 If approved by two-thirds of all the members elected to each house, this bill takes effect
205 upon approval by the governor, or the day following the constitutional time limit of Utah
206 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
207 the date of veto override.