

ANNEXATION AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to municipal annexations.

Highlighted Provisions:

This bill:

- ▶ changes a time period before which a public hearing on a proposed annexation may not be held from 60 to 30 days after adoption of a resolution proposing the annexation;
- ▶ authorizes a municipality to adopt an annexation ordinance without allowing or considering protests if 75% of property owners have consented to the annexation;
- ▶ modifies the protest threshold for a certain type of annexation;
- ▶ eliminates the requirement of county legislative body approval for a certain type of annexation;
- ▶ eliminates a requirement to provide affected entities with a notice of the enactment of an annexation ordinance; and
- ▶ eliminates a provision relating to the effective date of annexations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 10-2-418, as last amended by Chapter 227, Laws of Utah 2003

30 10-2-425, as last amended by Chapter 233, Laws of Utah 2005

31

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

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

34 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**
35 **Hearing.**

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

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

40 (B) the majority of each island or peninsula consists of residential or commercial
41 development;

42 (C) the area proposed for annexation requires the delivery of municipal-type services;
43 and

44 (D) the municipality has provided most or all of the municipal-type services to the area
45 for more than one year; or

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

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

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

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

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

59 (2) (a) The legislative body of each municipality intending to annex an area under this
60 section shall:

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

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

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

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

71 (iv) hold a public hearing on the proposed annexation no earlier than ~~[60]~~ 30 days after
72 the adoption of the resolution under Subsection (2)(a)(i).

73 (b) Each notice under Subsections (2)(a)(ii) and (iii) shall:

74 (i) state that the municipal legislative body has adopted a resolution indicating its intent
75 to annex the area proposed for annexation;

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

77 (iii) describe the area proposed for annexation; and

78 (iv) except for an annexation that meets the property owner consent requirements of
79 Subsection (3)(b), state in conspicuous and plain terms that the municipal legislative body will
80 annex the area unless, at or before the public hearing under Subsection (2)(a)(iv), written
81 protests to the annexation are filed by the owners of private real property that:

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

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

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

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

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

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

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

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

100 (iii) is equal in value to at least [~~:(A) for a proposed annexation under Subsection~~
101 ~~(1)(a)(i),~~] 1/2 the value of all private real property within the entire area proposed for
102 annexation [~~;~~ ~~or~~].

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

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

109 (b) Upon conclusion of the public hearing under Subsection (2)(a)(iv), a municipality
110 may adopt an ordinance annexing the area proposed for annexation under this section without
111 allowing or considering protests under Subsection (3)(a) if the owners of at least 75% of the
112 total private land area within the entire area proposed for annexation have consented in writing
113 to the annexation.

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

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

121 Section 2. Section **10-2-425** is amended to read:

122 **10-2-425. Filing of plat or map and amended articles -- Notice requirements.**

123 (1) Within 30 days after enacting an ordinance annexing an unincorporated area or
124 adjusting a boundary under this part, the municipal legislative body shall:

125 [~~(a) send notice of the enactment to each affected entity;~~]

126 [~~(b)~~] (a) file with the lieutenant governor:

127 (i) a certified copy of the ordinance approving the annexation or boundary adjustment,
128 together with a plat or map prepared by a licensed surveyor, approved by the municipal
129 legislative body, and filed with the county surveyor in accordance with Section 17-23-17,
130 showing the new boundaries of the affected area; and

131 (ii) (A) if the municipality has articles of incorporation, amended articles of
132 incorporation reflecting the annexation or boundary adjustment, as provided in Section
133 10-1-117; or

134 (B) if the municipality does not have articles of incorporation, written notice of the
135 adoption of an annexation ordinance, accompanied by a copy of the ordinance; and

136 [~~(c)~~] (b) in accordance with Section 26-8a-414, file the documents described in
137 Subsection (1)[~~(b)~~](a)(i) with the Department of Health.

138 (2) If an annexation or boundary adjustment under this part also causes an automatic
139 annexation to a local district under Section 17B-2-515.5 or an automatic withdrawal from a
140 local district under Subsection 17B-2-601(2), the municipal legislative body shall, as soon as
141 practicable after enacting an ordinance annexing an unincorporated area or adjusting a
142 boundary, send notice of the annexation or boundary adjustment to the local district to which
143 the annexed area is automatically annexed or from which the annexed area is automatically
144 withdrawn.

145 (3) The municipal legislative body shall comply with the notice requirements of
146 Section 10-1-116.

147 [~~(4) Each notice required under Subsections (1) and (3) relating to an annexation shall~~
148 ~~state the effective date of the annexation, as determined under Subsection (5).]~~

149 [~~(5) An annexation under this part is completed and takes effect:]~~

150 [~~(a) for the annexation of an area located in a county of the first class:]~~

151 [~~(i) July 1 following enactment of an ordinance annexing the unincorporated area if:]~~

152 ~~[(A) the ordinance is adopted during the preceding November 1 through April 30; and]~~
153 ~~[(B) the requirements of Subsection (1) are met before that July 1; or]~~
154 ~~[(ii) January 1 following enactment of an ordinance annexing the unincorporated area~~
155 ~~if:]~~

156 ~~[(A) the ordinance is adopted during the preceding May 1 through October 31; and]~~
157 ~~[(B) the requirements of Subsection (1) are met before that January 1; and]~~
158 ~~[(b) for all other annexations, the date of the lieutenant governor's issuance of:]~~
159 ~~[(i) a certification of amended articles under Subsection 10-1-117(3), for an annexation~~
160 ~~by a municipality that has articles of incorporation and filed with the lieutenant governor~~
161 ~~amended articles of incorporation under Subsection (1)(a)(iii)(A); or]~~

162 ~~[(ii) a certificate of annexation under Subsection (1)(b), for an annexation by a~~
163 ~~municipality that does not have articles of incorporation and filed with the lieutenant governor~~
164 ~~a notice of adoption of an annexation ordinance under Subsection (1)(a)(iii)(B).]~~

Legislative Review Note
as of 1-22-07 6:31 AM

Office of Legislative Research and General Counsel

H.B. 362 - Annexation Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/29/2007, 11:29:18 AM, Lead Analyst: Wardrop, T.

Office of the Legislative Fiscal Analyst