

**MILITARY INSTALLATION DEVELOPMENT AUTHORITY
AND ANNEXATION AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill amends provisions related to a Military Installation Development Authority and its ability to petition for annexation of land, create project areas, and issue bonds.

Highlighted Provisions:

This bill:

- ▶ allows a Military Installation Development Authority (MIDA) to petition for annexation of a project area as if it was the sole private property owner under certain circumstances;
- ▶ requires the MIDA to provide notice of the annexation to the military installation;
- ▶ permits the military installation to object to the petition for annexation;
- ▶ amends the land that may be included in a project area;
- ▶ does not require the permission of a county for the creation of a MIDA project area if the land in the project area is wholly within a municipality; and
- ▶ clarifies the bonding process for the project area.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

10-2-402, as last amended by Laws of Utah 2009, Chapters 92, 205, and 230

30 **63H-1-401**, as last amended by Laws of Utah 2010, Chapter 9

31 **63H-1-601**, as enacted by Laws of Utah 2007, Chapter 23



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

34 Section 1. Section **10-2-402** is amended to read:

35 **10-2-402. Annexation -- Limitations.**

36 (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be
37 annexed to the municipality as provided in this part.

38 (b) An unincorporated area may not be annexed to a municipality unless:

39 (i) it is a contiguous area;

40 (ii) it is contiguous to the municipality;

41 (iii) except as provided in Subsection 10-2-418(1)(b), annexation will not leave or
42 create an unincorporated island or unincorporated peninsula; and

43 (iv) for an area located in a specified county with respect to an annexation that occurs
44 after December 31, 2002, the area is within the proposed annexing municipality's expansion
45 area.

46 (2) Except as provided in Section 10-2-418, a municipality may not annex an
47 unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

48 (3) (a) An annexation under this part may not include part of a parcel of real property
49 and exclude part of that same parcel unless the owner of that parcel has signed the annexation
50 petition under Section 10-2-403.

51 (b) A piece of real property that has more than one parcel number is considered to be a
52 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

53 (4) A municipality may not annex an unincorporated area in a specified county for the
54 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to
55 annex the same or a related area unless the municipality has the ability and intent to benefit the
56 annexed area by providing municipal services to the annexed area.

57 (5) The legislative body of a specified county may not approve urban development

58 within a municipality's expansion area unless:

59 (a) the county notifies the municipality of the proposed development; and

60 (b) (i) the municipality consents in writing to the development; or

61 (ii) (A) within 90 days after the county's notification of the proposed development, the
62 municipality submits to the county a written objection to the county's approval of the proposed
63 development; and

64 (B) the county responds in writing to the municipality's objections.

65 (6) (a) An annexation petition may not be filed under this part proposing the
66 annexation of an area located in a county that is not the county in which the proposed annexing
67 municipality is located unless the legislative body of the county in which the area is located has
68 adopted a resolution approving the proposed annexation.

69 (b) Each county legislative body that declines to adopt a resolution approving a
70 proposed annexation described in Subsection (6)(a) shall provide a written explanation of its
71 reasons for declining to approve the proposed annexation.

72 (7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation
73 Administration has, by a record of decision, approved for the construction or operation of a
74 Class I, II, or III commercial service airport, as designated by the Federal Aviation
75 Administration in 14 C.F.R. Part 139.

76 (b) A municipality may not annex an unincorporated area within 5,000 feet of the
77 center line of any runway of an airport operated or to be constructed and operated by another
78 municipality unless the legislative body of the other municipality adopts a resolution
79 consenting to the annexation.

80 (c) A municipality that operates or intends to construct and operate an airport and does
81 not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b)
82 may not deny an annexation petition proposing the annexation of that same area to that
83 municipality.

84 (8) An annexation petition may not be filed if it proposes the annexation of an area that
85 is within a proposed township in a petition to establish a township under Subsection

86 17-27a-306(1)(c) that has been certified under Subsection 17-27a-306(1)(f), until after the
87 canvass of an election on the proposed township under Subsection 17-27a-306(1)(h).

88 (9) (a) A municipality may not annex an unincorporated area located within a project
89 area described in a project area plan adopted by the military installation development authority
90 under Title 63H, Chapter 1, Military Installation Development Authority Act, without the
91 authority's approval.

92 (b) (i) Except as provided in Subsection (9)(b)(ii), the Military Installation
93 Development Authority may petition for annexation of a project area and contiguous
94 surrounding land to a municipality as if it was the sole private property owner of the project
95 area and surrounding land, if the area to be annexed is entirely contained within the boundaries
96 of a military installation.

97 (ii) Before petitioning for annexation under Subsection (9)(b)(i), the Military
98 Installation Development Authority shall provide the military installation with a copy of the
99 petition for annexation. The military installation may object to the petition for annexation
100 within 14 days of receipt of the copy of the annexation petition. If the military installation
101 objects under this Subsection (9)(b)(ii), the Military Installation Development Authority may
102 not petition for the annexation as if it was the sole private property owner.

103 (iii) If any portion of an area annexed under a petition for annexation filed by a
104 Military Installation Development Authority is located in a specified county:

- 105 (A) the annexation process shall follow the requirements for a specified county; and
- 106 (B) the provisions of Subsection 10-2-402(6) do not apply.

107 Section 2. Section **63H-1-401** is amended to read:

108 **63H-1-401. Preparation of project area plan -- Required contents of project area**
109 **plan.**

110 (1) (a) Before [~~spending any funds in a project area or~~] entering into any lease or
111 development agreement, the authority board shall adopt a project area plan as provided in this
112 part.

113 (b) In order to adopt a project area plan, the authority board shall:

114 (i) prepare a draft project area plan;
115 (ii) give notice as required under Subsection 63H-1-402(2);
116 (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
117 (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the
118 draft project area plan as the project area plan.

119 (c) Before adopting a draft project area plan as the project area plan, the authority
120 board may make modifications to the draft project area plan that the board considers necessary
121 or appropriate.

122 (2) Each project area plan and draft project area plan shall contain:

123 (a) a legal description of the boundary of the project area that is the subject of the
124 project area plan;

125 (b) the authority's purposes and intent with respect to the project area; and

126 (c) the board's findings and determination that:

127 (i) there is a need to effectuate a public purpose;

128 (ii) there is a public benefit to the proposed development project;

129 (iii) it is economically sound and feasible to adopt and carry out the project area plan;

130 and

131 (iv) carrying out the project area plan will promote the public peace, health, safety, and
132 welfare of the community in which the project area is located.

133 (3) ~~[(a)]~~ A project area described in a project area plan:

134 ~~[(i)]~~ (a) shall include military land; and

135 ~~[(ii)]~~ (b) may include ~~[one or all of the following: (A) private land if: (I) the owner of~~
136 ~~the private land consents to the inclusion of the land within the project area; (II) subject to~~
137 ~~Subsection (3)(b), the private land included within the project area is contiguous to the military~~
138 ~~land included within the project area; (III) the total size of the project area does not exceed 100~~
139 ~~acres; and (IV) the project area is located within a county of the third, fourth, fifth, or sixth~~
140 ~~class; (B) up to an additional 150 acres of public or private land that is not contiguous to~~
141 ~~military land if: (I) the land is included in a project area that will include a hotel facility for~~

142 ~~current and retired military personnel at a military discount rate; (H) the owner of the public or~~
143 ~~private land consents to the inclusion of the land in the project area; and (I) 50 or more acres~~
144 ~~of the 150 acres was jointly owned by a municipality and a county on January 1, 2010; or (C)]~~
145 public or private land, whether or not it is contiguous to military land, if:

146 ~~[(H)]~~ (i) the legislative body of the county in which the public or private land is located,
147 if the public land or private land is located in an unincorporated county, passes a resolution
148 consenting to the inclusion of the land in the project area;

149 ~~[(H)]~~ (ii) the legislative body of an included municipality passes a resolution
150 consenting to the inclusion of the land in the project area; and

151 ~~[(H)]~~ (iii) the owner of the public or private land consents to the inclusion of the land
152 in the project area.

153 ~~[(b) Private land does not lose its contiguousness to military land because of the~~
154 ~~presence of a road or right-of-way.]~~

155 Section 3. Section **63H-1-601** is amended to read:

156 **63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics**
157 **of bonds.**

158 (1) The authority may not issue bonds under this part unless the authority board first
159 adopts a resolution authorizing their issuance.

160 (2) (a) As provided in the authority resolution authorizing the issuance of bonds under
161 this part or the trust indenture under which the bonds are issued, bonds issued under this part
162 may be issued in one or more series and may be sold at public or private sale and in the manner
163 provided in the resolution or indenture.

164 (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest
165 at the rate, be in the denomination and in the form, carry the conversion or registration
166 privileges, have the rank or priority, be executed in the manner, be subject to the terms of
167 redemption or tender, with or without premium, be payable in the medium of payment and at
168 the place, and have other characteristics as provided in the authority resolution authorizing
169 their issuance or the trust indenture under which they are issued.

170 (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the
171 board may provide for the publication of the resolution:

172 (a) in a newspaper having general circulation in the authority's boundaries; and

173 (b) as required in Section 45-1-101.

174 (4) In lieu of publishing the entire resolution, the board may publish notice of bonds
175 that contains the information described in Subsection 11-14-316(2).

176 (5) For a period of 30 days after the publication, any person in interest may contest:

177 (a) the legality of the resolution or proceeding;

178 (b) any bonds that may be authorized by the resolution or proceeding; or

179 (c) any provisions made for the security and payment of the bonds.

180 (6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified
181 written complaint, within 30 days of the publication under Subsection (5), in the district court
182 of the county in which the person resides.

183 (b) A person may not contest the matters set forth in Subsection (5), or the regularity,
184 formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for
185 contesting provided in Subsection (6)(a).

186 Section 4. **Effective date.**

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