

Senator Karen Mayne proposes the following substitute bill:

POLITICAL SUBDIVISION FORMATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to the formation of a political subdivision.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions authorizing a county legislative body or residents of the unincorporated county to request an incorporation feasibility study;
- ▶ directs the county clerk to certify or reject a resident request;
- ▶ provides requirements for a feasibility study and a hearing on the feasibility study;
- ▶ enacts provisions authorizing a county legislative body to adopt a resolution to incorporate unincorporated areas of the county as a noncontiguous municipality and residents of the unincorporated county to petition for the incorporation of unincorporated areas of the county as a noncontiguous municipality;
- ▶ directs a county legislative body to appoint an advisory committee to recommend districts for the council members of the proposed noncontiguous municipality;
- ▶ directs the county clerk to certify or reject a resident petition for incorporation;
- ▶ amends provisions related to changing the boundaries of a local district that includes certain unincorporated county areas; and



26 ▶ makes technical and conforming amendments.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **10-1-104**, as last amended by Laws of Utah 2003, Chapter 292

34 **10-2-101**, as last amended by Laws of Utah 2012, Chapter 359

35 **10-2-102**, as last amended by Laws of Utah 2012, Chapter 359

36 **17B-1-502**, as last amended by Laws of Utah 2013, Chapter 141

37 ENACTS:

38 **10-2-130**, Utah Code Annotated 1953

39 **10-2-131**, Utah Code Annotated 1953

40 **10-2-132**, Utah Code Annotated 1953

41 **10-2-133**, Utah Code Annotated 1953

42 **10-2-134**, Utah Code Annotated 1953

43 **10-2-135**, Utah Code Annotated 1953

44 **10-2-136**, Utah Code Annotated 1953

45 **10-2-137**, Utah Code Annotated 1953



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

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

49 **10-1-104. Definitions.**

50 As used in this title:

51 (1) "City" means a municipality that is classified by population as a city of the first
52 class, a city of the second class, a city of the third class, a city of the fourth class, or a city of
53 the fifth class, under Section **10-2-301**.

54 (2) "Contiguous" means:

55 (a) if used to described an area, continuous, uninterrupted, and without an island of
56 territory not included as part of the area; and

57 (b) if used to describe an area's relationship to another area, sharing a common
58 boundary.

59 (3) "Governing body" means collectively the legislative body and the executive of any
60 municipality. [~~Unless otherwise provided:~~]

61 [~~(a) in a city of the first or second class, the governing body is the city commission;~~]

62 [~~(b) in a city of the third, fourth, or fifth class, the governing body is the city council;~~
63 and]

64 [~~(c) in a town, the governing body is the town council.~~]

65 (4) "Municipal" means of or relating to a municipality.

66 (5) "Municipality" means a city of the first class, city of the second class, city of the
67 third class, city of the fourth class, city of the fifth class, or a town, as classified in Section
68 10-2-301.

69 (6) "Peninsula," when used to describe an unincorporated area, means an area
70 surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated
71 territory and situated so that the length of a line drawn across the unincorporated area from an
72 incorporated area to an incorporated area on the opposite side shall be less than 25% of the
73 total aggregate boundaries of the unincorporated area.

74 (7) "Person" means an individual, corporation, partnership, organization, association,
75 trust, governmental agency, or any other legal entity.

76 (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances,
77 rules, and regulations properly adopted by any municipality unless the construction is clearly
78 contrary to the intent of state law.

79 (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

80 (10) "Town" means a municipality classified by population as a town under Section
81 10-2-301.

82 (11) "Unincorporated" means not within a municipality.

83 Section 2. Section 10-2-101 is amended to read:

84 **10-2-101. Definitions.**

85 (1) As used in this part:

86 (a) "Feasibility consultant" means a person or firm:

87 (i) with expertise in the processes and economics of local government; and

88 (ii) ~~[who]~~ that is independent of and not affiliated with a county or sponsor of a
89 petition to incorporate.

90 (b) "Noncontiguous" means:

91 (i) if used to describe an area, discontinuous, interrupted, and possibly with an island of
92 territory included as part of the area; and

93 (ii) if used to describe an area's relationship to another area, not sharing a common
94 boundary.

95 ~~[(b)]~~ (c) "Private," with respect to real property, means taxable property.

96 (2) For purposes of this part:

97 (a) the owner of real property shall be the record title owner according to the records of
98 the county recorder on the date of the filing of the request or petition; and

99 (b) the value of private real property shall be determined according to the last
100 assessment roll for county taxes before the filing of the request or petition.

101 (3) For purposes of each provision of this part that requires the owners of private real
102 property covering a percentage or fraction of the total private land area within an area to sign a
103 request or petition:

104 (a) a parcel of real property may not be included in the calculation of the required
105 percentage or fraction unless the request or petition is signed by:

106 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
107 ownership interest in that parcel; or

108 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
109 of owners of that parcel;

110 (b) the signature of a person signing a request or petition in a representative capacity on
111 behalf of an owner is invalid unless:

112 (i) the person's representative capacity and the name of the owner the person represents
113 are indicated on the request or petition with the person's signature; and

114 (ii) the person provides documentation accompanying the request or petition that
115 substantiates the person's representative capacity; and

116 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
117 request or petition on behalf of a deceased owner.

118 Section 3. Section **10-2-102** is amended to read:

119 **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**
120 **town incorporation -- Incorporation of a noncontiguous area.**

121 (1) (a) A contiguous area of a county not within a municipality may incorporate as a
122 municipality as provided in this part.

123 [~~(a)~~] (b) Incorporation of a contiguous area as a city is governed by Sections
124 10-2-103 through 10-2-124.

125 [~~(b)~~] (c) Incorporation of a contiguous area as a town is governed by Sections 10-2-125
126 through 10-2-129.

127 (2) A county may study the incorporation of a noncontiguous area of a county of a first
128 class and not within a municipality in accordance with Sections 10-2-130 through 10-2-137.

129 Section 4. Section 10-2-130 is enacted to read:

130 **10-2-130. Request or resolution for feasibility study for noncontiguous**
131 **municipality -- Requirements -- Limitations.**

132 (1) The process to incorporate as a municipality a noncontiguous area of a county of
133 the first class that is governed by a county executive-council form of government, as described
134 in Section 17-52-504, and not located within a municipality, is initiated by:

135 (a) a request for a feasibility study filed with the clerk of the county in which the area is
136 located; or

137 (b) a resolution adopted by the county legislative body to engage a feasibility
138 consultant.

139 (2) Each request under Subsection (1)(a)(i) shall:

140 (a) be signed by the owners of private real property that:

141 (i) is located within the area proposed to be incorporated;

142 (ii) covers at least 10% of the total private land area within the area; and

143 (iii) is equal in value to at least 7% of the value of all private real property within the
144 area;

145 (b) indicate the typed or printed name and current residence address of each owner
146 signing the request;

147 (c) describe the noncontiguous area proposed to be incorporated as a municipality;

148 (d) designate up to five signers of the request as sponsors, one of whom shall be
149 designated as the contact sponsor, with the mailing address and telephone number of each;

150 (e) be accompanied by and circulated with an accurate map or plat, prepared by a
151 licensed surveyor, showing the boundaries of the proposed municipality; and

152 (f) request the county legislative body to commission a study to determine the
153 feasibility of incorporating the noncontiguous area as a municipality.

154 (3) A resolution under Subsection (1)(a)(ii) shall:

155 (a) describe the noncontiguous area proposed to be incorporated as a municipality;

156 (b) be accompanied by and circulated with an accurate map or plat, prepared by a
157 licensed surveyor, showing the boundaries of the proposed municipality; and

158 (c) direct the county legislative body to commission a study to determine the feasibility
159 of incorporating the area as a municipality.

160 (4) A request or a resolution for a feasibility study under this section may not propose
161 for incorporation an area that includes some or all of an area that is the subject of a petition that
162 is certified in accordance with Section 10-2-110, a resolution adopted under 10-2-135, or a
163 petition certified in accordance with Section 10-2-137 unless:

164 (a) the proposed incorporation that is the subject of the petition or resolution has been
165 defeated by the voters at an election under Section 10-2-111; or

166 (b) the time provided under Subsection 10-2-109(1) or Subsection 10-2-135(1) has
167 lapsed without the filing of a petition or adoption of a resolution.

168 (5) (a) As used in this Subsection (5):

169 (i) "Township incorporation procedure" means the following actions, the subject of
170 which includes an area located in whole or in part in a township:

171 (A) a request for incorporation described in Section 10-2-130;

172 (B) a feasibility study described in Section 10-2-106;

173 (C) a modified request and a supplemental feasibility study described in Section
174 10-2-107; or

175 (D) an incorporation petition described in Section 10-2-109 that is not certified under
176 Section 10-2-110.

177 (ii) "Township annexation procedure" means one or more of the following actions, the
178 subject of which includes an area located in whole or in part in a township:

179 (A) a petition to annex described in Section 10-2-403;

180 (B) a feasibility study described in Section 10-2-413;

181 (C) a modified annexation petition or supplemental feasibility study described in
182 Section 10-2-414;

183 (D) a boundary commission decision described in Section 10-2-416; or

184 (E) any action described in Section 10-2-418 before the adoption of an ordinance to
185 approve annexation under Subsection 10-2-418(3)(b).

186 (b) Except as provided in Subsection (5)(d), if an incorporation petition or resolution is
187 filed under this section, and the petition or resolution includes some or all of an area that is the
188 subject of a township incorporation procedure or township annexation procedure filed on or
189 after January 1, 2014, the township incorporation procedure or township annexation procedure
190 is suspended on the date that the incorporation petition is filed or resolution is adopted under
191 this section.

192 (c) (i) If a township incorporation procedure or township annexation procedure is
193 suspended under Subsection (5)(b), any applicable deadline or timeline is suspended through
194 May 11, 2015.

195 (ii) On May 12, 2015, the applicable deadline or timeline described in Subsection
196 (5)(c)(i):

197 (A) may proceed and the period of time during the suspension does not toll against that
198 deadline or timeline; and

199 (B) does not start over.

200 (d) Subsection (5)(b) does not apply to a township annexation procedure that includes a
201 parcel located in whole or in part in a township that is:

202 (i) less than or equal to 200 acres; and

203 (ii) owned by a government entity or a non-profit entity.

204 (6) (a) At the time of filing the request for a feasibility study with the county clerk, the
205 sponsors of the request shall mail or deliver a copy of the request to the chair of the planning
206 commission of each township in which any part of the area proposed for incorporation is
207 located.

208 (b) No later than three business days after the day on which a county legislative body
209 adopts a resolution to engage a feasibility consultant, the county legislative body shall mail or
210 deliver a copy of the request to the chair of the planning commission of each township in which
211 any part of the area proposed for incorporation is located.

212 (7) (a) As used in this Subsection (7), "rural real property" means an area:
213 (i) zoned primarily for manufacturing, commercial, or agricultural purposes; and
214 (ii) that does not include residential units with a density greater than one unit per acre.
215 (b) Except as provided in Subsection (8), unless a property owner consents in writing, a
216 request under Subsection (1)(a)(i) and a resolution under Subsection (1)(a)(ii) may not include
217 real property that:
218 (i) consists of 1,500 or more contiguous acres of rural real property consisting of one or
219 more tax parcels;
220 (ii) is not contiguous to but is used in connection with rural real property that consists
221 of 1,500 acres or more of contiguous acres of real property;
222 (iii) is owned, managed, or controlled by a person, company, or association, including
223 a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural
224 real property; or
225 (iv) is located in whole or part in one of the following as defined in Section [17-41-101](#):
226 (A) an agricultural protection area;
227 (B) a mining protection area; or
228 (C) an industrial protection area.
229 (8) A resolution or petition described in Subsection (1) may not include real property
230 described in Subsection (7) without the owner's written consent unless the county legislative
231 body finds by clear and convincing evidence in the record that:
232 (a) the real property is not rural real property; and
233 (b) the real property receives from the county a majority of municipal-type services
234 described in Subsection [10-2-104\(4\)\(b\)\(ii\)](#).
235 Section 5. Section **10-2-131** is enacted to read:
236 **10-2-131. Notice to owner of property -- Exclusion of property from proposed**
237 **boundaries.**
238 (1) As used in this section:
239 (a) "Assessed value" with respect to property means the value at which the property
240 would be assessed without regard to a valuation for agricultural use under Section [59-2-503](#).
241 (b) "Owner" means a person having an interest in real property, including an affiliate,
242 subsidiary, or parent company.

243 (c) "Urban" means an area with a residential density of greater than one unit per acre.

244 (2) Within seven calendar days of the date on which a request under Section 10-2-130
245 is filed or a resolution under Section 10-2-130 is adopted, the county clerk shall send written
246 notice of the proposed incorporation to each record owner of real property owning more than:

247 (a) 1% of the assessed value of all property in the proposed incorporation boundaries;

248 or

249 (b) 10% of the total private land area within the proposed incorporation boundaries.

250 (3) If an owner owns, controls, or manages more than 1% of the assessed value of all
251 property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more
252 of the total private land area in the proposed incorporation boundaries, the owner may exclude
253 all or part of the property owned, controlled, or managed by the owner from the proposed
254 boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar
255 days of receiving the clerk's notice under Subsection (2).

256 (4) The county legislative body shall exclude the property identified by an owner in the
257 Notice of Exclusion from the proposed incorporation boundaries unless the county legislative
258 body finds by clear and convincing evidence in the record that:

259 (a) the exclusion will leave an unincorporated island within the proposed municipality;

260 and

261 (b) the property to be excluded:

262 (i) is urban; and

263 (ii) currently receives from the county a majority of municipal-type services, including:

264 (A) culinary or irrigation water;

265 (B) sewage collection or treatment;

266 (C) storm drainage or flood control;

267 (D) recreational facilities or parks;

268 (E) electric generation or transportation;

269 (F) construction or maintenance of local streets and roads;

270 (G) curb and gutter or sidewalk maintenance;

271 (H) garbage and refuse collection; and

272 (I) street lighting.

273 (5) If the county legislative body excludes property from the proposed boundaries

274 under Subsection (4), the county legislative body shall, within five days of the exclusion, send
275 written notice of the exclusion to the contact sponsor.

276 Section 6. Section 10-2-132 is enacted to read:

277 **10-2-132. Processing a request for noncontiguous incorporation -- Certification or**
278 **rejection by county clerk -- Processing priority -- Limitations -- Township planning**
279 **commission recommendation.**

280 (1) Within 45 days of the filing of a request under Section 10-2-130, the county clerk
281 shall:

282 (a) with the assistance of other county officers from whom the clerk requests
283 assistance, determine whether the request complies with Section 10-2-130; and

284 (b) (i) if the clerk determines that the request complies with Section 10-2-130:

285 (A) certify the request and deliver the certified request to the county legislative body;
286 and

287 (B) mail or deliver written notification of the certification to the contact sponsor and
288 the chair of the planning commission of each township in which any part of the area proposed
289 for incorporation is located; or

290 (ii) if the clerk determines that the request fails to comply with the requirements of
291 Section 10-2-130, reject the request and notify the contact sponsor in writing of the rejection
292 and the reasons for the rejection.

293 (2) The county clerk shall certify or reject requests under Subsection (1) in the order in
294 which they are filed.

295 (3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request
296 may be amended to correct the deficiencies for which it was rejected and then refiled with the
297 county clerk.

298 (ii) A signature on a request under Section 10-2-130 may be used toward fulfilling the
299 signature requirement of Subsection 10-2-130(2)(a) for the request as modified under
300 Subsection (3)(a)(i).

301 (b) If a request is amended and refiled under Subsection (3)(a) after having been
302 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed
303 request, and its processing priority is determined by the date on which it is refiled.

304 Section 7. Section 10-2-133 is enacted to read:

305 **10-2-133. Feasibility study -- Feasibility study consultant.**

306 (1) Within 60 days of receipt of a certified request under Subsection 10-2-132(1)(b)(i),
307 or within 60 days of adopting a resolution to engage a feasibility consultant in accordance with
308 Subsection 10-2-130(1)(a)(ii), the county legislative body shall engage the feasibility
309 consultant chosen under Subsection (2) to conduct a feasibility study.

310 (2) The feasibility consultant shall be chosen:

311 (a) (i) if a request for a feasibility study was filed with the county clerk:

312 (A) by the contact sponsor of the incorporation petition with the consent of the county;

313 or

314 (B) by the county if the designated sponsors state, in writing, that the contact sponsor
315 defers selection of the feasibility consultant to the county; or

316 (ii) if the county legislative body adopted a resolution to engage the feasibility
317 consultant, by the county legislative body; and

318 (b) in accordance with applicable county procurement procedures.

319 (3) The county legislative body shall require the feasibility consultant to:

320 (a) complete the feasibility study and submit the written results to the county legislative
321 body and the contact sponsor, if applicable, no later than 90 days after the feasibility consultant
322 is engaged to conduct the study;

323 (b) submit with the full written results of the feasibility study a summary of the results
324 no longer than one page in length; and

325 (c) attend the public hearings under Subsection 10-2-134(1) and present the feasibility
326 study results and respond to questions from the public at those hearings.

327 (4) (a) The feasibility study shall consider:

328 (i) population and population density within the area proposed for incorporation and
329 the surrounding area;

330 (ii) current and five-year projections of demographics and economic base in the
331 proposed municipality and surrounding area, including household size and income, commercial
332 and industrial development, and public facilities;

333 (iii) projected growth in the proposed municipality and in adjacent areas during the
334 next five years;

335 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,

336 including overhead, of governmental services in the proposed municipality, including:
337 (A) culinary water;
338 (B) secondary water;
339 (C) sewer;
340 (D) law enforcement;
341 (E) fire protection;
342 (F) roads and public works;
343 (G) garbage;
344 (H) weeds; and
345 (I) government offices;
346 (v) assuming the same tax categories and tax rates as currently imposed by the county
347 and all other current service providers, the present and five-year projected revenue for the
348 proposed municipality;
349 (vi) a projection of any new taxes per household that may be levied within the
350 incorporated area within five years of incorporation; and
351 (vii) the fiscal impact on unincorporated areas, other municipalities, local districts,
352 special service districts, and other governmental entities in the county.
353 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a
354 level and quality of governmental services to be provided to the proposed municipality in the
355 future that fairly and reasonably approximate the level and quality of governmental services
356 being provided to the proposed municipality at the time of the feasibility study.
357 (ii) In determining the present cost of a governmental service, the feasibility consultant
358 shall consider:
359 (A) the amount it would cost the proposed municipality to provide governmental
360 service for the first five years after incorporation; and
361 (B) the county's present and five-year projected cost of providing governmental
362 service.
363 (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation
364 and anticipated growth.
365 (5) If the five-year projected revenues under Subsection (4)(a)(v) exceed the five-year
366 projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall

367 project and report the expected annual revenue surplus to the contact sponsor, if applicable, the
368 county legislative body, and the lieutenant governor.

369 Section 8. Section **10-2-134** is enacted to read:

370 **10-2-134. Public hearings on feasibility study results -- Notice of hearings.**

371 (1) The county legislative body shall, at its next regular meeting after receipt of the
372 results of the feasibility study, schedule at least two public hearings to be held:

373 (a) within the following 60 days;

374 (b) at least seven days apart;

375 (c) in geographically diverse locations within the proposed municipality; and

376 (d) for the purpose of allowing:

377 (i) the feasibility consultant to present the results of the study; and

378 (ii) the public to become informed about the feasibility study results and to ask the
379 feasibility consultant questions about those results.

380 (2) At a public hearing described in Subsection (1), the county legislative body shall:

381 (a) provide a map or plat of the boundaries of the proposed municipality;

382 (b) provide a copy of the feasibility study for public review; and

383 (c) allow the public to express its views about the proposed incorporation, including its
384 views about the proposed boundaries.

385 (3) (a) (i) The county clerk shall publish notice of the public hearings required under
386 Subsection (1):

387 (A) at least once a week for three successive weeks in a newspaper of general
388 circulation within the proposed municipality; and

389 (B) on the Utah Public Notice Website, created in Section [63F-1-701](#), for three weeks.

390 (ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at
391 least three days before the first public hearing required under Subsection (1).

392 (b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation
393 within the proposed municipality, the county clerk shall post at least one notice of the hearings
394 per 1,000 population in conspicuous places within the proposed municipality that are most
395 likely to give notice of the hearings to the residents of the proposed municipality.

396 (ii) The clerk shall post the notices under Subsection (3)(b)(i) at least seven days before
397 the first hearing under Subsection (1).

398 (c) The notice under Subsections (3)(a) and (b) shall include the feasibility study
399 summary under Subsection 10-2-133(3)(b) and shall indicate that a full copy of the study is
400 available for inspection and copying at the office of the county clerk.

401 Section 9. Section 10-2-135 is enacted to read:

402 **10-2-135. Noncontiguous incorporation advisory committee petition or resolution**
403 **-- Requirements and form.**

404 (1) At any time within one year of the completion of the public hearings required under
405 Subsection 10-2-134(1):

406 (a) a petition to form an advisory committee for incorporation of the area proposed to
407 be incorporated as a municipality may be filed in the office of the clerk of the county in which
408 the area is located; or

409 (b) the county legislative body may adopt a resolution to form an advisory committee
410 for incorporation of the area proposed to be incorporated as a municipality.

411 (2) Each petition under Subsection (1)(a) shall:

412 (a) be signed by:

413 (i) 10% of all registered voters within the area proposed to be incorporated as a
414 municipality, according to the official voter registration list maintained by the county on the
415 date the petition is filed; and

416 (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting
417 precincts within the area proposed to be incorporated as a municipality, according to the
418 official voter registration list maintained by the county on the date the petition is filed;

419 (b) indicate the typed or printed name and current residence address of each owner
420 signing the petition;

421 (c) describe the area proposed to be incorporated as a municipality, as described in the
422 feasibility study request;

423 (d) state the proposed name for the proposed municipality;

424 (e) designate five signers of the petition as petition sponsors, one of whom shall be
425 designated as the contact sponsor, with the mailing address and telephone number of each;

426 (f) be accompanied by and circulated with an accurate plat or map, prepared by a
427 licensed surveyor, showing the boundaries of the proposed municipality; and

428 (g) substantially comply with and be circulated in the following form:

429 "PETITION FOR FORMATION OF ADVISORY COMMITTEE ON
430 INCORPORATION OF (insert the proposed name of the proposed municipality).

431 To the Honorable County Legislative Body of (insert the name of the county in which
432 the proposed municipality is located) County, Utah:

433 We, the undersigned registered voters within the area described in this petition,
434 respectfully petition the county legislative body to form an advisory committee to study the
435 question of whether the area should incorporate as a municipality and propose council districts
436 for the proposed municipality. Each of the undersigned affirms that each has personally signed
437 this petition and is a registered voter within the described area, and that the current residence
438 address of each is correctly written after the signer's name. The area proposed to be
439 incorporated as a municipality is described as follows: (insert an accurate description of the
440 area proposed to be incorporated)."

441 (3) A resolution adopted by the county legislative body for incorporation shall:

442 (a) include the information described in Subsections (2)(d) and (f); and

443 (b) appoint members to the council district advisory committee in accordance with
444 Section [10-2-136](#).

445 (4) A signature on a request under Section [10-2-130](#) may be used toward fulfilling the
446 signature requirement of Subsection (2)(a):

447 (a) if the request under Section [10-2-130](#) notified the signer in conspicuous language
448 that the signature, unless withdrawn, would also be used for purposes of a petition for
449 incorporation under this section; and

450 (b) unless the signer files with the county clerk a written withdrawal of the signature
451 before the petition under this section is filed with the clerk.

452 (5) (a) A signature does not qualify as a signature to meet the requirement described in
453 Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

454 (i) is not located entirely within the boundaries of the proposed municipality; or

455 (ii) includes fewer than 50 registered voters.

456 (b) A voting precinct that is not located entirely within the boundaries of the proposed
457 municipality does not qualify as a voting precinct to meet the precinct requirements of
458 Subsection (2)(a)(ii).

459 Section 10. Section **10-2-136** is enacted to read:

460 10-2-136. Determination of boundaries of council districts -- Appointment of
461 council districts advisory committee -- Adoption of proposed council districts.

462 (1) The boundaries of the nine council districts for election of municipal council
463 members shall be designated in accordance with this section.

464 (2) (a) In a resolution to incorporate under Section 10-2-135, or in accordance with
465 Subsection 10-2-137(4), a resolution adopted after the certification of a petition, the county
466 legislative body shall appoint the following 12 members to a council district advisory
467 committee to advise the county legislative body on the designation of council districts for the
468 noncontiguous area proposed for incorporation or any other matter related to the incorporation,
469 as assigned by the county executive:

470 (i) six members representing the townships that are located within the county and that
471 are also located, in part or in whole, in the area proposed for incorporation;

472 (ii) two members who each reside in the area proposed for incorporation; and

473 (iii) four additional members.

474 (b) (i) The county legislative body may not appoint a person under Subsection (2)(a)
475 unless the person:

476 (A) is a registered voter of the county; and

477 (B) does not hold a public office or public employment other than membership on the
478 advisory committee.

479 (ii) Notwithstanding Subsection (2)(b)(i)(B), the county legislative body may appoint a
480 public official of a local district, as defined in Section 17B-1-102, or a special service district,
481 as defined in Section 17D-1-102, if the public official does not also hold a public office with a
482 political subdivision other than the local district or special service district.

483 (c) The county shall reimburse each member of the advisory committee for necessary
484 expenses incurred in performing the member's duties on the committee.

485 (d) If a vacancy occurs in the advisory committee, the county legislative body shall fill
486 the vacancy within 10 days of receiving notice of the vacancy.

487 (3) The county executive shall convene a meeting of the members of the advisory
488 committee described in Subsection (2) within 10 days after the day on which the county
489 legislative body adopts the resolution appointing the members.

490 (4) The advisory committee may:

491 (a) establish advisory boards or committees and include on them persons who are not
492 members of the advisory committee; and

493 (b) request the assistance and advice of any officers or employees of a state agency or
494 local government.

495 (5) (a) The advisory committee shall:

496 (i) study the division of the area proposed for incorporation into council districts that
497 comply with Section 10-3-205.5 or any other matter related to the incorporation, as assigned by
498 the county executive;

499 (ii) hold public hearings and community forums and other means the committee
500 considers appropriate to disseminate information and stimulate public discussion of the
501 committee's purposes, progress, and conclusions;

502 (iii) include in the report described in Subsection (5)(a)(iv) a determination of the
503 initial terms of the members of the municipal council so that:

504 (A) approximately half the members of the municipal council are elected to serve an
505 initial term, of no less than one year, that allows their successors to serve a full four-year term
506 that coincides with the schedule established in Subsection 10-3-205(1); and

507 (B) the remaining members of the municipal council are elected to serve an initial
508 term, of no less than one year, that allows their successors to serve a full four-year term that
509 coincides with the schedule established in Subsection 10-3-205(2); and

510 (iv) file a written report of its findings and recommendations with the county executive
511 and the county legislative body within 180 days after the convening of its first meeting.

512 (b) Each advisory committee report under Subsection (5)(a) shall include:

513 (i) the advisory committee's recommendation as to the division of the area proposed for
514 incorporation into nine council districts; and

515 (ii) a detailed map, prepared by a licensed surveyor, of the boundaries of each council
516 district.

517 (6) A meeting held by the advisory committee is open to the public.

518 (7) The county legislative body shall provide for the advisory committee:

519 (a) suitable meeting facilities;

520 (b) necessary secretarial services;

521 (c) necessary printing and photocopying services; and

522 (d) necessary clerical and staff assistance.

523 Section 11. Section **10-2-137** is enacted to read:

524 **10-2-137. Processing of petition by county clerk -- Certification or rejection --**

525 **Processing priority -- Resolution after petition to appoint council district advisory**
526 **committee.**

527 (1) Within 45 days of the filing of a petition under Section [10-2-135](#), the county clerk
528 shall:

529 (a) with the assistance of other county officers from whom the clerk requests
530 assistance, determine whether the petition meets the requirements of Section [10-2-135](#); and

531 (b) (i) if the clerk determines that the petition meets those requirements, certify the
532 petition, deliver it to the county legislative body, and notify in writing the contact sponsor of
533 the certification; or

534 (ii) if the clerk determines that the petition fails to meet any of those requirements,
535 reject the petition and notify the contact sponsor in writing of the rejection and the reasons for
536 the rejection.

537 (2) (a) If the county clerk rejects a petition under Subsection (1)(b)(ii), the petition may
538 be modified to correct the deficiencies for which it was rejected and then refiled with the
539 county clerk.

540 (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days
541 after the county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the
542 modified petition is filed after the expiration of the deadline provided in Subsection
543 [10-2-135](#)(1).

544 (c) A signature on an incorporation petition under Section [10-2-135](#) may be used
545 toward fulfilling the signature requirement of Subsection [10-2-135](#)(2)(a) for the petition as
546 modified under Subsection (2)(a).

547 (3) (a) Within 20 days of the county clerk's receipt of a modified petition under
548 Subsection (2)(a), the county clerk shall follow the same procedure for the modified petition as
549 provided under Subsection (1) for an original petition.

550 (b) If a county clerk rejects a modified petition under Subsection (1)(b)(ii), no further
551 modification of that petition may be filed.

552 (4) Within 10 days of certification of a petition by the county clerk in accordance with

553 Subsection (1)(b), the county legislative body shall adopt a resolution to appoint members to a
554 council district advisory committee in accordance with Section [10-2-136](#).

555 Section 12. Section **17B-1-502** is amended to read:

556 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**
557 **certain circumstances.**

558 (1) (a) An area within the boundaries of a local district may be withdrawn from the
559 local district only as provided in this part.

560 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local
561 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,
562 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,
563 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process
564 of withdrawing that area from the local district.

565 (2) (a) An area within the boundaries of a local district is automatically withdrawn
566 from the local district by the annexation of the area to a municipality or the adding of the area
567 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

568 (i) the local district provides:

569 (A) fire protection, paramedic, and emergency services; or

570 (B) law enforcement service;

571 (ii) an election for the creation of the local district was not required because of
572 Subsection [17B-1-214\(3\)\(d\)](#); and

573 (iii) before annexation or boundary adjustment, the boundaries of the local district do
574 not include any of the annexing municipality.

575 (b) The effective date of a withdrawal under this Subsection (2) is governed by
576 Subsection [17B-1-512\(2\)\(b\)](#).

577 (3) (a) ~~Ann~~ Except as provided in Subsection (3)(c), an area within the boundaries of a
578 local district located in a county of the first class is automatically withdrawn from the local
579 district by the incorporation of a municipality whose boundaries include the area if:

580 (i) the local district provides:

581 (A) fire protection, paramedic, and emergency services; or

582 (B) law enforcement service;

583 (ii) an election for the creation of the local district was not required because of

584 Subsection [17B-1-214\(3\)\(d\)](#); and
585 (iii) the legislative body of the newly incorporated municipality:
586 (A) adopts a resolution no later than 180 days after the effective date of incorporation
587 approving the withdrawal that includes the legal description of the area to be withdrawn; and
588 (B) delivers a copy of the resolution to the board of trustees of the local district.
589 (b) The effective date of a withdrawal under this Subsection (3) is governed by
590 Subsection [17B-1-512\(2\)\(a\)](#).
591 (c) Section [17B-1-505](#) shall govern the withdrawal of an unincorporated area within a
592 county of the first class if:
593 (i) the local district from which the area is withdrawn provides:
594 (A) fire protection, paramedic, and emergency services; or
595 (B) law enforcement services; or
596 (ii) an election for the creation of the local district was not required under Subsection
597 [17B-1-214\(3\)\(d\)](#).