

Senator Kirk A. Cullimore proposes the following substitute bill:

MUNICIPAL ANNEXATION REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to municipal annexation.

Highlighted Provisions:

This bill:

- ▶ allows a municipality to annex certain unincorporated areas that are not otherwise subject to annexation under specified circumstances;
- ▶ allows a municipality to annex certain unincorporated areas without an annexation petition under specified circumstances;
- ▶ provides clarification regarding certain municipal reimbursement requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-402, as last amended by Laws of Utah 2019, Chapter 498

10-2-418, as last amended by Laws of Utah 2019, Chapter 255



26 [10-2-421](#), as repealed and reenacted by Laws of Utah 2013, Chapter 242

27 [17B-1-503](#), as last amended by Laws of Utah 2019, Chapter 330



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

30 Section 1. Section [10-2-402](#) is amended to read:

31 **[10-2-402. Annexation -- Limitations.](#)**

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

34 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an unincorporated area may not be
35 annexed to a municipality unless:

36 (i) it is a contiguous area;

37 (ii) it is contiguous to the municipality;

38 (iii) annexation will not leave or create an unincorporated island or unincorporated
39 peninsula:

40 (A) except as provided in Subsection [10-2-418](#)~~[(3)]~~(4); or

41 (B) unless the county and municipality have otherwise agreed; and

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

45 (c) A municipality may annex an unincorporated area within a specified county that
46 does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated
47 island or unincorporated peninsula, if:

48 (i) the area is within the annexing municipality's expansion area;

49 (ii) the specified county in which the area is located and the annexing municipality
50 agree to the annexation;

51 (iii) the area is not within the area of another municipality's annexation policy plan,
52 unless the other municipality agrees to the annexation; and

53 (iv) the annexation is for the purpose of providing municipal services to the area.

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

56 (3) (a) An annexation under this part may not include part of a parcel of real property

57 and exclude part of that same parcel unless the owner of that parcel has signed the annexation
58 petition under Section 10-2-403.

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

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

65 (5) The legislative body of a specified county may not approve urban development
66 within a municipality's expansion area unless:

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

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

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

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

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

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

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

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

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

92 (8) (a) As used in this subsection, "project area" means a project area as defined in
93 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by
94 the Military Installation Development Authority under Title 63H, Chapter 1, Military
95 Installation Development Authority Act.

96 (b) A municipality may not annex an unincorporated area located within a project area
97 without the authority's approval.

98 (c) (i) Except as provided in Subsection (8)(c)(ii), the Military Installation
99 Development Authority may petition for annexation of the following areas to a municipality as
100 if it was the sole private property owner within the area:

101 (A) an area within a project area;

102 (B) an area that is contiguous to a project area and within the boundaries of a military
103 installation;

104 (C) an area owned by the Military Installation Development Authority; and

105 (D) an area that is contiguous to an area owned by the Military Installation
106 Development Authority that the Military Installation Development Authority plans to add to an
107 existing project area.

108 (ii) If any portion of an area annexed under a petition for annexation filed by the
109 Military Installation Development Authority is located in a specified county:

110 (A) the annexation process shall follow the requirements for a specified county; and

111 (B) the provisions of Subsection 10-2-402(6) do not apply.

112 Section 2. Section 10-2-418 is amended to read:

113 **10-2-418. Annexation without a petition -- Notice -- Hearing.**

114 (1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in
115 accordance with this section of an area located within a county of the first class,
116 "municipal-type services" does not include a service provided by a municipality pursuant to a
117 contract that the municipality has with another political subdivision as "political subdivision" is
118 defined in Section 17B-1-102.

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

121 (a) (i) the area to be annexed consists of one or more unincorporated islands within or
122 unincorporated peninsulas contiguous to the municipality;

123 (ii) the majority of each island or peninsula consists of residential or commercial
124 development;

125 (iii) the area proposed for annexation requires the delivery of municipal-type services;
126 and

127 (iv) the municipality has provided most or all of the municipal-type services to the area
128 for more than one year;

129 (b) (i) the area to be annexed consists of one or more unincorporated islands within or
130 unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800
131 residents; and

132 (ii) the municipality has provided one or more municipal-type services to the area for at
133 least one year;

134 (c) (i) the area consists of:

135 (A) an unincorporated island within or an unincorporated peninsula contiguous to the
136 municipality; and

137 (B) for an area outside of the county of the first class proposed for annexation, no more
138 than 50 acres; and

139 (ii) the county in which the area is located, subject to Subsection [~~(4)~~] (5)(b), and the
140 municipality agree that the area should be included within the municipality; or

141 (d) (i) the area to be annexed consists only of one or more unincorporated islands in a
142 county of the second class;

143 (ii) the area to be annexed is located in the expansion area of a municipality; and

144 (iii) the county legislative body in which the municipality is located provides notice to
145 each property owner within the area to be annexed that:

146 (A) the county legislative body will hold a public hearing, no less than 15 days after the
147 day on which the county legislative body provides the notice; and

148 (B) after the public hearing the county legislative body may make a recommendation of
149 annexation to the municipality whose expansion area includes the area to be annexed.

150 (3) Notwithstanding Subsection 10-2-402(2) or (6), a municipality may annex an
151 unincorporated area without an annexation petition or the consent of the county in which the
152 area proposed for annexation is located, if:

153 (a) the area proposed for annexation:

154 (i) is located within a specified county;

155 (ii) includes private real property that is located within a county that is not the county
156 in which the proposed annexing municipality is located;

157 (iii) includes real property that is:

158 (A) owned by a public entity; and

159 (B) located in the county in which the proposed annexing municipality is located; and

160 (iv) does not include urban development;

161 (b) any portion of the private real property described in Subsection (3)(a)(ii) is located
162 within two miles of the proposed annexing municipality's boundary; and

163 (c) each owner of private real property within the area proposed for annexation
164 consents in writing to the proposed annexation.

165 ~~[(3)]~~ (4) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a
166 portion of an unincorporated island or unincorporated peninsula under this section, leaving
167 unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

168 (a) in adopting the resolution under Subsection ~~[(5)]~~ (6)(a) the municipal legislative
169 body determines that not annexing the entire unincorporated island or unincorporated peninsula
170 is in the municipality's best interest; and

171 (b) for an annexation of one or more unincorporated islands under Subsection (2)(b),
172 the entire island of unincorporated area, of which a portion is being annexed, complies with the
173 requirement of Subsection (2)(b)(i) relating to the number of residents.

174 ~~[(4)]~~ (5) (a) This ~~[Subsection (4)]~~ subsection applies only to an annexation within a
175 county of the first class.

176 (b) A county of the first class shall agree to an annexation if the majority of private
177 property owners within the area to be annexed give written consent to the annexation, in
178 accordance with Subsection ~~[(4)]~~ (5)(d), to the recorder of the annexing municipality.

179 (c) For purposes of Subsection ~~[(4)]~~ (5)(b), the majority of private property owners is
180 property owners who own:

181 (i) the majority of the total private land area within the area proposed for annexation;
182 and

183 (ii) private real property equal to at least one half the value of private real property
184 within the area proposed for annexation.

185 (d) A property owner consenting to annexation shall indicate the property owner's
186 consent on a form which includes language in substantially the following form:

187 "Notice: If this written consent is used to proceed with an annexation of your property
188 in accordance with Utah Code Section 10-2-418, no public election is required by law to
189 approve the annexation. If you sign this consent and later decide you do not want to support
190 the annexation of your property, you may withdraw your signature by submitting a signed,
191 written withdrawal with the recorder or clerk of [name of annexing municipality]. If you
192 choose to withdraw your signature, you must do so no later than the close of the public hearing
193 on the annexation conducted in accordance with Utah Code Subsection 10-2-418~~(4)~~(5)(d)".

194 (e) A private property owner may withdraw the property owner's signature indicating
195 consent by submitting a signed, written withdrawal with the recorder or clerk no later than the
196 close of the public hearing held in accordance with Subsection ~~(5)~~ (6)(b).

197 ~~(5)~~ (6) The legislative body of each municipality intending to annex an area under
198 this section shall:

199 (a) adopt a resolution indicating the municipal legislative body's intent to annex the
200 area, describing the area proposed to be annexed; and

201 (b) hold a public hearing on the proposed annexation no earlier than 30 days after the
202 adoption of the resolution described in Subsection ~~(5)~~ (6)(a).

203 ~~(6)~~ (7) A legislative body described in Subsection ~~(5)~~ (6) shall publish notice of a
204 public hearing described in Subsection ~~(5)~~ (6)(b):

205 (a) (i) at least once a week for three successive weeks before the public hearing in a
206 newspaper of general circulation within the municipality and the area proposed for annexation;

207 (ii) if there is no newspaper of general circulation in the combined area described in
208 Subsection ~~(6)~~ (7)(a)(i), at least three weeks before the day of the public hearing, by posting
209 one notice, and at least one additional notice per 2,000 population in the combined area, in
210 places within the combined area that are most likely to give notice to the residents within, and
211 the owners of real property located within, the combined area; or

212 (iii) at least three weeks before the day of the public hearing, by mailing notice to each
213 residence within, and each owner of real property located within, the combined area described
214 in Subsection ~~[(6)]~~ (7)(a)(i);

215 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
216 before the day of the public hearing;

217 (c) in accordance with Section 45-1-101, for three weeks before the day of the public
218 hearing;

219 (d) by sending written notice to:

220 (i) the board of each local district and special service district whose boundaries contain
221 some or all of the area proposed for annexation; and

222 (ii) the legislative body of the county in which the area proposed for annexation is
223 located; and

224 (e) if the municipality has a website, on the municipality's website for three weeks
225 before the day of the public hearing.

226 ~~[(7)]~~ (8) The legislative body of the annexing municipality shall ensure that:

227 (a) each notice described in Subsection ~~[(6)]~~ (7):

228 (i) states that the municipal legislative body has adopted a resolution indicating ~~[its]~~ the
229 municipality's intent to annex the area proposed for annexation;

230 (ii) states the date, time, and place of the public hearing described in Subsection ~~[(5)]~~
231 (6)(b);

232 (iii) describes the area proposed for annexation; and

233 (iv) except for an annexation that meets the ~~[property owner consent]~~ requirements of
234 ~~[Subsection (8)(b) or the recommendation of annexation requirements of Subsection (8)(c)]~~

235 Subsection (9)(b) or (c), states in conspicuous and plain terms that the municipal legislative
236 body will annex the area unless, at or before the public hearing described in Subsection ~~[(5)]~~
237 (6)(b), written protests to the annexation are filed by the owners of private real property that:

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

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

241 (C) is equal in value to at least 1/2 the value of all private real property within the
242 entire area proposed for annexation; and

243 (b) the first publication of the notice described in Subsection ~~[(6)]~~ (7)(a) occurs within
244 14 days after the day on which the municipal legislative body adopts a resolution under
245 Subsection ~~[(5)]~~ (6)(a).

246 ~~[(8)]~~ (9) (a) Except as provided in Subsections ~~[(8)]~~ (9)(b)(i) and ~~[(8)]~~ (9)(c)(i), upon
247 conclusion of the public hearing described in Subsection ~~[(5)]~~ (6)(b), the municipal legislative
248 body may adopt an ordinance approving the annexation of the area proposed for annexation
249 under this section unless, at or before the hearing, written protests to the annexation have been
250 filed with the recorder or clerk of the municipality by the owners of private real property that:

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

252 (ii) covers a majority of the total private land area within the entire area proposed for
253 annexation; and

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

256 (b) (i) Notwithstanding Subsection ~~[(8)]~~ (9)(a), upon conclusion of the public hearing
257 described in Subsection ~~[(5)]~~ (6)(b), a municipality may adopt an ordinance approving the
258 annexation of the area proposed for annexation under this section without allowing or
259 considering protests under Subsection ~~[(8)]~~ (9)(a) if:

260 (A) the owners of at least 75% of the total private land area within the entire area
261 proposed for annexation, representing at least 75% of the value of the private real property
262 within the entire area proposed for annexation, have consented in writing to the annexation[-];

263 or

264 (B) the annexation meets the requirements of Subsection (3).

265 (ii) Upon the effective date under Section 10-2-425 of an annexation approved by an
266 ordinance adopted under Subsection ~~[(8)]~~ (9)(b)(i), the area annexed is conclusively presumed
267 to be validly annexed.

268 (c) (i) Notwithstanding Subsection ~~[(8)]~~ (9)(a), upon conclusion of the public hearing
269 described in Subsection ~~[(5)]~~ (6)(b), a municipality may adopt an ordinance approving the
270 annexation of an area that the county legislative body proposes for annexation under this
271 section without allowing or considering protests under Subsection ~~[(8)]~~ (9)(a) if the county
272 legislative body has formally recommended annexation to the annexing municipality and has
273 made a formal finding that:

274 (A) the area to be annexed can be more efficiently served by the municipality than by
275 the county;

276 (B) the area to be annexed is not likely to be naturally annexed by the municipality in
277 the future as the result of urban development;

278 (C) annexation of the area is likely to facilitate the consolidation of overlapping
279 functions of local government; and

280 (D) annexation of the area is likely to result in an equitable distribution of community
281 resources and obligations.

282 (ii) The county legislative body may base the finding required in Subsection [(8)]
283 (9)(c)(i)(B) on:

284 (A) existing development in the area;

285 (B) natural or other conditions that may limit the future development of the area; or

286 (C) other factors that the county legislative body considers relevant.

287 (iii) A county legislative body may make the recommendation for annexation required
288 in Subsection [(8)] (9)(c)(i) for only a portion of an unincorporated island if, as a result of
289 information provided at the public hearing, the county legislative body makes a formal finding
290 that it would be equitable to leave a portion of the island unincorporated.

291 (iv) If a county legislative body has made a recommendation of annexation under
292 Subsection [(8)] (9)(c)(i):

293 (A) the relevant municipality is not required to proceed with the recommended
294 annexation; and

295 (B) if the relevant municipality proceeds with annexation, the municipality shall annex
296 the entire area that the county legislative body recommended for annexation.

297 (v) Upon the effective date under Section 10-2-425 of an annexation approved by an
298 ordinance adopted under Subsection [(8)] (9)(c)(i), the area annexed is conclusively presumed
299 to be validly annexed.

300 [(9)] (10) (a) Except as provided in Subsections [(8)] (9)(b)(i) and [(8)] (9)(c)(i), if
301 protests are timely filed [that comply with] under Subsection [(8)] (9)(a), the municipal
302 legislative body may not adopt an ordinance approving the annexation of the area proposed for
303 annexation, and the annexation proceedings under this section shall be considered terminated.

304 (b) Subsection [(9)] (10)(a) does not prohibit the municipal legislative body from

305 excluding from a proposed annexation under Subsection (2)(b) the property within an
306 unincorporated island regarding which protests have been filed and proceeding under
307 Subsection [~~(3)~~] (4) to annex some or all of the remaining portion of the unincorporated island.

308 Section 3. Section **10-2-421** is amended to read:

309 **10-2-421. Electric utility service in annexed area -- Reimbursement for value of**
310 **facilities -- Liability -- Arbitration.**

311 (1) As used in this section:

312 (a) "Commission" means the Public Service Commission established in Section

313 54-1-1.

314 (b) "Current replacement cost" means the cost the transferring party would incur to
315 construct the facility at the time of transfer using the transferring party's:

316 (i) standard estimating rates and standard construction methodologies for the facility;

317 and

318 (ii) standard estimating process.

319 (c) "Depreciation" means an amount calculated:

320 (i) based on:

321 (A) the life and depreciation mortality curve most recently set for the type of facility in
322 the depreciation rates set by the commission or other governing regulatory authority for the
323 electrical corporation; or

324 (B) a straight-line depreciation rate that represents the expended life if agreed to by the
325 transferring and receiving parties; and

326 (ii) to include the gross salvage value of the type of facility based on the latest
327 depreciation life approved by the commission or other governing regulatory authority for the
328 electrical corporation, with a floor at the gross salvage value of the asset and in no case less
329 than zero.

330 (d) "Electrical corporation" means:

331 (i) an entity as defined in Section 54-2-1; and

332 (ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).

333 (e) "Facility" means electric equipment or infrastructure used to serve an electric
334 customer, above ground or underground, including:

335 (i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or

336 other related equipment; or

337 (ii) a right-of-way, easement, or any other real property interest or legal right or interest
338 used to operate and maintain the electric equipment or infrastructure.

339 (f) "Facility transfer" means the transfer of a facility from a transferring party to a
340 receiving party in accordance with Subsection (3).

341 (g) "Lost or stranded facility" means a facility that is currently used by a transferring
342 party that will no longer be used, whether in whole or in part, as a result of a facility transfer.

343 (h) "Receiving party" means a municipality or electrical corporation to whom a facility
344 is transferred.

345 (i) "Transferring party" means a municipality or electrical corporation that transfers a
346 facility.

347 (2) If an electric customer in an area being annexed by a municipality receives electric
348 service from an electrical corporation, the municipality may not, without the agreement of the
349 electrical corporation, furnish municipal electric service to the electric customer in the annexed
350 area until the municipality has reimbursed the electrical corporation for the value of each
351 facility used to serve each electric customer within the annexed area, including the value of any
352 facility owned by a wholesale electric cooperative affiliated with the electrical corporation,
353 dedicated to provide service to the annexed area.

354 (3) The following procedures shall apply if a municipality transfers a facility to an
355 electrical corporation in accordance with Section 10-8-14 or if an electrical corporation
356 transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or
357 54-3-31:

358 (a) The transferring party shall provide a written estimate of the transferring party's
359 cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than
360 60 days after the date of notice from the receiving party.

361 (b) (i) The receiving party shall pay the estimated cost of preparing the inventory to the
362 transferring party no later than 60 days after the day that the receiving party receives the written
363 estimate.

364 (ii) If the actual cost of preparing the inventory differs from the estimated cost, the
365 transferring party shall include the difference between the actual cost and the estimated cost in
366 the reimbursement described in Subsection (5).

367 (c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in
368 accordance with Subsection (4), and deliver the inventory to the receiving party no later than
369 180 days after the day that the transferring party receives the payment specified in Subsection
370 (3)(b).

371 (d) (i) At any time, the parties may by agreement correct or update the inventory.

372 (ii) If the parties are unable to reach an agreement on an updated inventory, they shall:

373 (A) proceed with the facility transfer and reimbursement based on the inventory as
374 submitted in accordance with Subsection (3)(c); and

375 (B) resolve their dispute as provided in Subsection (6).

376 (e) Except as provided in Subsection (3)(f), the parties shall complete each facility
377 transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the
378 date that the transferring party delivers the inventory to the receiving party in accordance with
379 Subsection (3)(c).

380 (f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an
381 additional 90 days by agreement of the parties.

382 (4) (a) The inventory prepared by a transferring party in accordance with Subsection
383 (3)(c) shall include an identification of each facility to be transferred and the amount of
384 reimbursement as provided in Subsection (5).

385 (b) The transferring party may not include in the inventory a facility that the
386 transferring party removed from service for at least 36 consecutive months prior to the date of
387 the inventory, unless the facility was taken out of service as a result of an action by the
388 receiving party.

389 (5) (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of
390 each facility shall include:

391 (i) the cost of preparing the inventory as provided in Subsection (3)(b);

392 (ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by
393 the current replacement cost of the facility less depreciation based on facility age;

394 (iii) the cost incurred by the transferring party for:

395 (A) the physical separation of each facility from its system, including the cost of any
396 facility constructed or installed that is necessary for the transferring party to continue to provide
397 reliable electric service to its remaining customers;

398 (B) administrative, engineering, and record keeping expenses incurred by the
399 transferring party for the transfer of each facility to the receiving party, including any difference
400 between the actual cost of preparing the inventory and the estimated cost of preparing the
401 inventory; and

402 (C) reimbursement for any tax consequences to the transferring party resulting from
403 each facility transfer;

404 (iv) the value of each lost or stranded facility of the transferring party based on the
405 valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;

406 (v) the diminished value of each transferring party facility that will not be transferred
407 based on the percentage of the facility that will no longer be used as a result of the facility
408 transfer; and

409 (vi) the transferring party's book value of a right-of-way or easement transferred with
410 each facility.

411 (b) (i) (A) The receiving party may review the estimation of the current replacement
412 costs of each facility, including the wage rates, material costs, overhead assumptions, and other
413 pricing used to establish the estimation of the current replacement costs of the facility.

414 (B) Prior to reviewing the estimation, the receiving party shall enter into a
415 nondisclosure agreement acceptable to the transferring party.

416 (C) The nondisclosure agreement shall restrict the use of the information provided by
417 the transferring party solely for the purpose of reviewing the estimation of the current
418 replacement cost and preserve the confidentiality of the information to prevent any effect on a
419 competitive bid received by either party.

420 (ii) (A) If the age of a facility may be readily determined by the transferring party, the
421 transferring party shall use that age to determine the facility's depreciation.

422 (B) If the age of a facility cannot be readily determined, the transferring party shall
423 estimate the age of the facility based on the average remaining life approved for the same type
424 of facility in the most current depreciation rates set by the commission or other governing
425 regulatory authority for the electrical corporation.

426 (c) (i) (A) A transferring party that transfers a facility in accordance with this section
427 shall, upon delivery of a document conveying title to the receiving party, transfer the facility
428 without any express or implied warranties.

429 (B) A receiving party that receives a facility in accordance with this section shall, upon
430 receipt of a document conveying title, accept the facility in its existing condition and assume
431 any and all liability, fault, risk, or potential loss arising from or related to the facility.

432 (ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any
433 oil filled equipment is transferred, the receiving party discovers that a transferred oil filled
434 equipment contains polychlorinated biphenyl, the transferring party shall reimburse the
435 receiving party for the cost of testing and disposal of that oil filled equipment.

436 (6) (a) If the parties cannot agree on each facility to be transferred or the respective
437 reimbursement amount, the parties shall:

438 (i) proceed with the facility transfer and the reimbursement based on the inventory as
439 submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with
440 the schedule provided in Subsection (3)(e); and

441 (ii) submit the dispute for mediation or arbitration.

442 (b) The parties shall share equally in the costs of mediation or arbitration.

443 (c) If the parties are unable to resolve the dispute through mediation or arbitration,
444 either party may bring an action in the state court of jurisdiction.

445 (d) The arbitrator, or state court if the parties cannot agree on arbitration, shall
446 determine each facility to be transferred and the amount to be reimbursed in accordance with
447 Subsection (5).

448 (e) If the arbitrator or state court determines that:

449 (i) a transferring party transferred a facility that should not have been transferred, the
450 receiving party shall return the facility;

451 (ii) a party did not transfer a facility that should have been transferred, the party that
452 should have transferred the facility shall transfer the facility to the party to whom the facility
453 should have been transferred;

454 (iii) the amount reimbursed by the receiving party is insufficient, the receiving party
455 shall pay the difference to the transferring party; or

456 (iv) the amount reimbursed by the receiving party is more than the amount that should
457 have been reimbursed, the transferring party shall pay the difference to the receiving party.

458 (7) Unless otherwise agreed upon in writing by the parties:

459 (a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e)

460 no later than 60 days after the day that the arbitrator or court issues a determination unless the
461 parties mutually agree to a longer time to complete the transfer; and

462 (b) a party shall:

463 (i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than
464 30 days after the day that the arbitrator or court issues a determination; and

465 (ii) include interest in the payment at the overall rate of return on the rate base most
466 recently authorized by the commission or other governing regulatory agency for the electrical
467 corporation from the date the reimbursement was originally paid until the difference is paid.

468 (8) (a) Nothing in this section limits the availability of other damages under law arising
469 by virtue of an agreement between the municipality and the electrical corporation.

470 (b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled
471 to an award for:

472 (i) damages that are indirect, incidental, punitive, exemplary, or consequential;

473 (ii) lost profits; or

474 (iii) other business interruption damages.

475 (9) Nothing in this section or Section [10-8-14](#), [54-3-30](#), or [54-3-31](#) applies to a transfer
476 of facilities from an electrical corporation to a municipality in accordance with a decision by a
477 municipality that did not previously provide electric service and seeks to commence providing
478 electric service to a customer currently served by an electrical corporation within the municipal
479 boundary.

480 (10) The provisions of this section apply to any annexation under this part.

481 Section 4. Section **17B-1-503** is amended to read:

482 **17B-1-503. Withdrawal or boundary adjustment with municipal approval.**

483 (1) A municipality and a local district whose boundaries adjoin or overlap may adjust
484 the boundary of the local district to include more or less of the municipality, including the
485 expansion area identified in the annexation policy plan adopted by the municipality under
486 Section [10-2-401.5](#), in the local district by following the same procedural requirements as set
487 forth in Section [17B-1-417](#) for boundary adjustments between adjoining local districts.

488 (2) (a) Notwithstanding any other provision of this title, a municipality annexing all or
489 part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification,
490 Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal

491 services district organized under Chapter 2a, Part 11, Municipal Services District Act, may
492 petition to withdraw the area from the municipal services district in accordance with this
493 Subsection (2).

494 (b) For a valid withdrawal described in Subsection (2)(a):

495 (i) the annexation petition under Section 10-2-403 or a separate consent, signed by
496 owners of at least 60% of the total private land area, shall state that the signers request the area
497 to be withdrawn from the municipal services district; and

498 (ii) the legislative body of the municipality shall adopt a resolution, which may be the
499 resolution adopted in accordance with Subsection 10-2-418~~(5)~~(6)(a), stating the municipal
500 legislative body's intent to withdraw the area from the municipal services district.

501 (c) The board of trustees of the municipal services district shall consider the
502 municipality's petition to withdraw the area from the municipal services district within 90 days
503 after the day on which the municipal services district receives the petition.

504 (d) The board of trustees of the municipal services district:

505 (i) may hold a public hearing in accordance with the notice and public hearing
506 provisions of Section 17B-1-508;

507 (ii) shall consider information that includes any factual data presented by the
508 municipality and any owner of private real property who signed a petition or other form of
509 consent described in Subsection (2)(b)(i); and

510 (iii) identify in writing the information upon which the board of trustees relies in
511 approving or rejecting the withdrawal.

512 (e) The board of trustees of the municipal services district shall approve the
513 withdrawal, effective upon the annexation of the area into the municipality or, if the
514 municipality has already annexed the area, as soon as possible in the reasonable course of
515 events, if the board of trustees makes a finding that:

516 (i) (A) the loss of revenue to the municipal services district due to a withdrawal of the
517 area will be offset by savings associated with no longer providing municipal-type services to
518 the area; or

519 (B) if the loss of revenue will not be offset by savings resulting from no longer
520 providing municipal-type services to the area, the municipality agreeing to terms and
521 conditions, which may include terms and conditions described in Subsection 17B-1-510(5), can

522 mitigate or eliminate the loss of revenue;

523 (ii) the annexation petition under Section 10-2-403, or a separate petition meeting the
524 same signature requirements, states that the signers request the area to be withdrawn from the
525 municipal services district; or

526 (iii) the following have consented in writing to the withdrawal:

527 (A) owners of more than 60% of the total private land area; or

528 (B) owners of private land equal in assessed value to more than 60% of the assessed
529 value of all private real property within the area proposed for withdrawal have consented in
530 writing to the withdrawal.

531 (f) If the board of trustees of the municipal services district does not make any of the
532 findings described in Subsection (2)(e), the board of trustees may approve or reject the
533 withdrawal based upon information upon which the board of trustees relies and that the board
534 of trustees identifies in writing.

535 (g) (i) If a municipality annexes an island or a part of an island before May 14, 2019,
536 the legislative body of the municipality may initiate the withdrawal of the area from the
537 municipal services district by adopting a resolution that:

538 (A) requests that the area be withdrawn from the municipal services district; and

539 (B) a final local entity plat accompanies, identifying the area proposed to be withdrawn
540 from the municipal services district.

541 (ii) (A) Upon receipt of the resolution and except as provided in Subsection
542 (2)(g)(ii)(B), the board of trustees of the municipal services district shall approve the
543 withdrawal.

544 (B) The board of trustees of the municipal services district may reject the withdrawal if
545 the rejection is based upon a good faith finding that lost revenues due to the withdrawal will
546 exceed expected cost savings resulting from no longer serving the area.

547 (h) (i) Based upon a finding described in Subsection (e) or (f):

548 (A) the board of trustees of the municipal services district shall adopt a resolution
549 approving the withdrawal; and

550 (B) the chair of the board shall sign a notice of impending boundary action, as defined
551 in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3).

552 (ii) The annexing municipality shall deliver the following to the lieutenant governor:

553 (A) the resolution and notice of impending boundary action described in Subsection
554 (2)(g)(i);

555 (B) a copy of an approved final local entity plat as defined in Section 67-1a-6.5; and

556 (C) any other documentation required by law.

557 (i) (i) Once the lieutenant governor has issued an applicable certificate as defined in
558 Section 67-1a-6.5, the municipality shall deliver the certificate, the resolution and notice of
559 impending boundary action described in Subsection (2)(h)(i), the final local entity plat as
560 defined in Section 67-1a-6.5, and any other document required by law, to the recorder of the
561 county in which the area is located.

562 (ii) After the municipality makes the delivery described in Subsection (2)(i)(i), the
563 area, for all purposes, is no longer part of the municipal services district.

564 (j) The annexing municipality and the municipal services district may enter into an
565 interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, stating:

566 (i) the municipality's and the district's duties and responsibilities in conducting a
567 withdrawal under this Subsection (2); and

568 (ii) any other matter respecting an unincorporated island that the municipality
569 surrounds on all sides.

570 (3) After a boundary adjustment under Subsection (1) or a withdrawal under
571 Subsection (2) is complete:

572 (a) the local district shall, without interruption, provide the same service to any area
573 added to the local district as provided to other areas within the local district; and

574 (b) the municipality shall, without interruption, provide the same service that the local
575 district previously provided to any area withdrawn from the local district.

576 (4) No area within a municipality may be added to the area of a local district under this
577 section if the area is part of a local district that provides the same wholesale or retail service as
578 the first local district.