HB0359S01 compared with HB0359

{deleted text} shows text that was in HB0359 but was deleted in HB0359S01.

inserted text shows text that was not in HB0359 but was inserted into HB0359S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

10-2-421, as repealed and reenacted by Laws of Utah 2013, Chapter 242

17B-1-503, as last amended by Laws of Utah 2019, Chapter 330

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

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

10-2-402. Annexation -- Limitations.

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

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

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a

Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

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

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

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

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

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

(A) an area within a project area;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) the area consists of:

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

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

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

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

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

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

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

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

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

(a) the area proposed for annexation:

(i) is located within a specified county;

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

(iii) includes real property that is:

(A) owned by a public entity; and

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

(iv) does not include urban development;

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

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

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

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

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

[~~(4)~~] (5) (a) This [~~Subsection (4)~~] subsection applies only to an annexation within a

county of the first class.

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

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

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

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

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

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

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

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

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

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

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

(a) (i) at least once a week for three successive weeks before the public hearing in a

newspaper of general circulation within the municipality and the area proposed for annexation;

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

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

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

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

(d) by sending written notice to:

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

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

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

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

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

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

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

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the [property owner consent] requirements of [Subsection (8)(b) or the recommendation of annexation requirements of Subsection (8)(c)] Subsection (9)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection [(5)]

(6)(b), written protests to the annexation are filed by the owners of private real property that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) existing development in the area;

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

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

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

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

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

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

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

to be validly annexed.

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

(b) Subsection [(9)] (10)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection [(3)] (4) to annex some or all of the remaining portion of the unincorporated island.

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

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

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

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

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

(ii) standard estimating process.

(c) "Depreciation" means an amount calculated:

(i) based on:

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

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

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

(d) "Electrical corporation" means:

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

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

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

(i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) If the age of a facility cannot be readily determined, the transferring party shall

estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.

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

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

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

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

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

(ii) submit the dispute for mediation or arbitration.

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

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

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

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

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

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

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

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

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

(a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and

(b) a party shall:

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

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

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

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

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

(ii) lost profits; or

(iii) other business interruption damages.

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

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

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

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

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality, including the

expansion area identified in the annexation policy plan adopted by the municipality under Section 10-2-401.5, in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) (a) Notwithstanding any other provision of this title, a municipality annexing all or part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal services district organized under Chapter 2a, Part 11, Municipal Services District Act, may petition to withdraw the area from the municipal services district in accordance with this Subsection (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) any other documentation required by law.

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

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

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

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

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

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

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

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

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

the first local district.