

Representative Steve Waldrip proposes the following substitute bill:

MUNICIPAL BOUNDARY MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to municipal boundaries.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a municipality from annexing an area proposed for incorporation after a certain period of time;
- ▶ establishes a procedure for filing an annexation petition proposing a cross-county annexation;
- ▶ extends certain notice requirements and signatory rights applicable to annexation to all other counties;
- ▶ allows an owner of private real property located in a mining protection area to file a protest to an annexation petition;
- ▶ requires a municipal legislative body to exclude private real property located in a mining protection area from an annexation petition unless the property owner consents;
- ▶ prohibits an incorporation from excluding part of a parcel of real property unless the property owner consents;



- 26 ▶ extends certain landowner notification requirements for incorporation;
- 27 ▶ extends the time period for certain property owners to exclude property from a
- 28 proposed incorporation after receiving notice of the proposed incorporation;
- 29 ▶ establishes a second opportunity for certain property owners to exclude property
- 30 from a proposed incorporation under certain circumstances;
- 31 ▶ allows for a feasibility study to be modified if property is subsequently annexed or
- 32 excluded from the proposed incorporation;
- 33 ▶ modifies provisions relating to the public hearings required for incorporation; and
- 34 ▶ makes technical and conforming changes.

35 Money Appropriated in this Bill:

36 None

37 Other Special Clauses:

38 This bill provides a special effective date.

39 Utah Code Sections Affected:

40 AMENDS:

- 41 **10-2-401**, as last amended by Laws of Utah 2015, Chapter 352
- 42 **10-2-401.5**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
- 43 **10-2-402**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
- 44 **10-2-403**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
- 45 **10-2-405**, as last amended by Laws of Utah 2015, Chapter 352
- 46 **10-2-407**, as last amended by Laws of Utah 2019, Chapter 255
- 47 **10-2-408**, as last amended by Laws of Utah 2015, Chapter 352
- 48 **10-2-414**, as last amended by Laws of Utah 2015, Chapter 352
- 49 **10-2a-201.5**, as enacted by Laws of Utah 2019, Chapter 165
- 50 **10-2a-203**, as last amended by Laws of Utah 2019, Chapter 165
- 51 **10-2a-206**, as last amended by Laws of Utah 2019, Chapter 165
- 52 **10-2a-207**, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended
- 53 by Coordination Clause, Laws of Utah 2019, Chapter 165

54 ENACTS:

- 55 **10-2-402.5**, Utah Code Annotated 1953

56

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

58 Section 1. Section **10-2-401** is amended to read:

59 **10-2-401. Definitions -- Property owner provisions.**

60 (1) As used in this part:

61 (a) "Affected entity" means:

62 (i) a county of the first or second class in whose unincorporated area the area proposed
63 for annexation is located;

64 (ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the
65 area proposed for annexation is located, if the area includes residents or commercial or
66 industrial development;

67 (iii) a local district under Title 17B, Limited Purpose Local Government Entities -
68 Local Districts, or special service district under Title 17D, Chapter 1, Special Service District
69 Act, whose boundary includes any part of an area proposed for annexation;

70 (iv) a school district whose boundary includes any part of an area proposed for
71 annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

72 (v) a municipality whose boundaries are within 1/2 mile of an area proposed for
73 annexation.

74 (b) "Annexation petition" means a petition under Section [10-2-403](#) proposing the
75 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the
76 municipality.

77 (c) "Commission" means a boundary commission established under Section [10-2-409](#)
78 for the county in which the property that is proposed for annexation is located.

79 (d) "Expansion area" means the unincorporated area that is identified in an annexation
80 policy plan under Section [10-2-401.5](#) as the area that the municipality anticipates annexing in
81 the future.

82 (e) "Feasibility consultant" means a person or firm with expertise in the processes and
83 economics of local government.

84 (f) "Mining protection area" means the same as that term is defined in Section
85 [17-41-101](#).

86 ~~(f)~~ (g) "Municipal selection committee" means a committee in each county composed
87 of the mayor of each municipality within that county.

88 ~~[(g)]~~ (h) "Planning advisory area" means the same as that term is defined in Section
89 [17-27a-306](#).

90 ~~[(h)]~~ (i) "Private," with respect to real property, means not owned by the United States
91 or any agency of the federal government, the state, a county, a municipality, a school district, a
92 local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a
93 special service district under Title 17D, Chapter 1, Special Service District Act, or any other
94 political subdivision or governmental entity of the state.

95 (i) "Rural real property" means the same as that term is defined in Section
96 [17B-2a-1107](#).

97 ~~[(i)]~~ (k) "Specified county" means a county of the second, third, fourth, fifth, or sixth
98 class.

99 ~~[(j)]~~ (l) "Unincorporated peninsula" means an unincorporated area:

100 (i) that is part of a larger unincorporated area;

101 (ii) that extends from the rest of the unincorporated area of which it is a part;

102 (iii) that is surrounded by land that is within a municipality, except where the area
103 connects to and extends from the rest of the unincorporated area of which it is a part; and

104 (iv) whose width, at any point where a straight line may be drawn from a place where it
105 borders a municipality to another place where it borders a municipality, is no more than 25% of
106 the boundary of the area where it borders a municipality.

107 ~~[(k)]~~ (m) "Urban development" means:

108 (i) a housing development with more than 15 residential units and an average density
109 greater than one residential unit per acre; or

110 (ii) a commercial or industrial development for which cost projections exceed
111 \$750,000 for all phases.

112 (2) For purposes of this part:

113 (a) the owner of real property shall be:

114 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the
115 records of the county recorder on the date of the filing of the petition or protest; or

116 (ii) the lessee of military land, as defined in Section [63H-1-102](#), if the area proposed
117 for annexation includes military land that is within a project area described in a project area
118 plan adopted by the military installation development authority under Title 63H, Chapter 1,

119 Military Installation Development Authority Act; and

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

122 (3) For purposes of each provision of this part that requires the owners of private real
123 property covering a percentage or majority of the total private land area within an area to sign a
124 petition or protest:

125 (a) a parcel of real property may not be included in the calculation of the required
126 percentage or majority unless the petition or protest is signed by:

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

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

131 (b) the signature of a person signing a petition or protest in a representative capacity on
132 behalf of an owner is invalid unless:

133 (i) the person's representative capacity and the name of the owner the person represents
134 are indicated on the petition or protest with the person's signature; and

135 (ii) the person provides documentation accompanying the petition or protest that
136 substantiates the person's representative capacity; and

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

139 Section 2. Section **10-2-401.5** is amended to read:

140 **10-2-401.5. Annexation policy plan.**

141 (1) [~~After December 31, 2002, no~~ No] municipality may annex an unincorporated area
142 located within a specified county unless the municipality has adopted an annexation policy plan
143 as provided in this section.

144 (2) To adopt an annexation policy plan:

145 (a) the planning commission shall:

146 (i) prepare a proposed annexation policy plan that complies with Subsection (3);

147 (ii) hold a public meeting to allow affected entities to examine the proposed annexation
148 policy plan and to provide input on it;

149 (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected

150 entity at least 14 days before the meeting;

151 (iv) accept and consider any additional written comments from affected entities until
152 10 days after the public meeting under Subsection (2)(a)(ii);

153 (v) before holding the public hearing required under Subsection (2)(a)(vi), make any
154 modifications to the proposed annexation policy plan the planning commission considers
155 appropriate, based on input provided at or within 10 days after the public meeting under
156 Subsection (2)(a)(ii);

157 (vi) hold a public hearing on the proposed annexation policy plan;

158 (vii) provide reasonable public notice, including notice to each affected entity, of the
159 public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the
160 hearing;

161 (viii) make any modifications to the proposed annexation policy plan the planning
162 commission considers appropriate, based on public input provided at the public hearing; and

163 (ix) submit [its] the planning commission's recommended annexation policy plan to the
164 municipal legislative body; and

165 (b) the municipal legislative body shall:

166 (i) hold a public hearing on the annexation policy plan recommended by the planning
167 commission;

168 (ii) provide reasonable notice, including notice to each affected entity, of the public
169 hearing at least 14 days before the date of the hearing;

170 (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the
171 recommended annexation policy plan that the legislative body considers appropriate; and

172 (iv) adopt the recommended annexation policy plan, with or without modifications.

173 (3) Each annexation policy plan shall include:

174 (a) a map of the expansion area which may include territory located outside the county
175 in which the municipality is located;

176 (b) a statement of the specific criteria that will guide the municipality's decision
177 whether or not to grant future annexation petitions, addressing matters relevant to those criteria
178 including:

179 (i) the character of the community;

180 (ii) the need for municipal services in developed and undeveloped unincorporated

181 areas;

182 (iii) the municipality's plans for extension of municipal services;

183 (iv) how the services will be financed;

184 (v) an estimate of the tax consequences to residents both currently within the municipal

185 boundaries and in the expansion area; and

186 (vi) the interests of all affected entities;

187 (c) justification for excluding from the expansion area any area containing urban

188 development within 1/2 mile of the municipality's boundary; and

189 (d) a statement addressing any comments made by affected entities at or within 10 days

190 after the public meeting under Subsection (2)(a)(ii).

191 (4) In developing, considering, and adopting an annexation policy plan, the planning

192 commission and municipal legislative body shall:

193 (a) attempt to avoid gaps between or overlaps with the expansion areas of other

194 municipalities;

195 (b) consider population growth projections for the municipality and adjoining areas for

196 the next 20 years;

197 (c) consider current and projected costs of infrastructure, urban services, and public

198 facilities necessary:

199 (i) to facilitate full development of the area within the municipality; and

200 (ii) to expand the infrastructure, services, and facilities into the area being considered

201 for inclusion in the expansion area;

202 (d) consider, in conjunction with the municipality's general plan, the need over the next

203 20 years for additional land suitable for residential, commercial, and industrial development;

204 (e) consider the reasons for including agricultural lands, forests, recreational areas, and

205 wildlife management areas in the municipality; and

206 (f) be guided by the principles set forth in Subsection 10-2-403[~~(6)~~](5).

207 (5) Within 30 days after adopting an annexation policy plan, the municipal legislative

208 body shall submit a copy of the plan to the legislative body of each county in which any of the

209 municipality's expansion area is located.

210 (6) Nothing in this chapter may be construed to prohibit or restrict two or more

211 municipalities in specified counties from negotiating and cooperating with respect to defining

212 each municipality's expansion area under an annexation policy plan.

213 **Section 3.** Section **10-2-402** is amended to read:

214 **10-2-402. Annexation -- Limitations.**

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

217 (b) Except as provided in Subsection (1)(c), an unincorporated area may not be
218 annexed to a municipality unless:

219 (i) [it] the unincorporated area is a contiguous area;

220 (ii) [it] the unincorporated area is contiguous to the municipality;

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

223 (A) except as provided in Subsection **10-2-418(3)**; or

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

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

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

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

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

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

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

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

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

242 (b) A piece of real property that has more than one parcel number is considered to be a

243 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

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

248 (5) (a) As used in this subsection, "expansion area urban development" means:

249 (i) for a specified county, urban development within a city or town's expansion area; or

250 (ii) for a county of the first class, urban development within a city or town's expansion
251 area that:

252 (A) consists of 50 or more acres;

253 (B) requires the county to change the zoning designation of the land on which the
254 urban development is located; and

255 (C) does not include commercial or industrial development that is located within a
256 mining protection area as defined in Section 17-41-101, regardless of whether the commercial
257 or industrial development is for a mining use as defined in Section 17-41-101.

258 (b) A county legislative body may not approve expansion area urban development
259 unless:

260 (i) the county notifies the city or town of the proposed development; and

261 (ii) (A) the city or town consents in writing to the development;

262 (B) within 90 days after the county's notification of the proposed development, the city
263 or town submits to the county a written objection to the county's approval of the proposed
264 development and the county responds in writing to the city or town's objection; or

265 (C) the city or town fails to respond to the county's notification of the proposed
266 development within 90 days after the day on which the county provides the notice.

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

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

274 [~~(7)~~] (6) (a) As used in this Subsection [~~(7)~~] (6), "airport" means an area that the
275 Federal Aviation Administration has, by a record of decision, approved for the construction or
276 operation of a Class I, II, or III commercial service airport, as designated by the Federal
277 Aviation Administration in 14 C.F.R. Part 139.

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

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

286 [~~(8)~~] (7) (a) As used in this [~~subsection~~] Subsection (7), "project area" means a project
287 area as defined in Section 63H-1-102 that is in a project area plan as defined in Section
288 63H-1-102 adopted by the Military Installation Development Authority under Title 63H,
289 Chapter 1, Military Installation Development Authority Act.

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

292 (c) (i) Except as provided in Subsection [~~(8)~~] (7)(c)(ii), the Military Installation
293 Development Authority may petition for annexation of the following areas to a municipality as
294 if [~~it~~] the Military Installation Development Authority was the sole private property owner
295 within the area:

296 (A) an area within a project area;

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

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

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

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

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

306 (B) the provisions of [~~Subsection 10-2-402(6)~~] [Section 10-2-402.5](#) do not apply.

307 (8) A municipality may not annex an unincorporated area if:

308 (a) the area is proposed for incorporation in:

309 (i) a feasibility study conducted under [Section 10-2a-205](#); or

310 (ii) a supplemental feasibility study conducted under [Section 10-2a-206](#);

311 (b) the lieutenant governor completes the first public hearing on the proposed

312 incorporation under [Subsection 10-2a-207\(4\)](#); and

313 (c) the time period for a specified landowner, as defined in [Section 10-2a-203](#), to

314 request that the lieutenant governor exclude the specified landowner's property from the

315 proposed incorporation under [Subsection 10-2a-207\(5\)\(a\)](#) has expired.

316 Section 4. Section **10-2-402.5** is enacted to read:

317 **10-2-402.5. Cross-county annexation -- Requirements.**

318 (1) As used in this section:

319 (a) "Affected county" means the county in which an area proposed for cross-county
320 annexation is located.

321 (b) "Affected municipality" means a municipality:

322 (i) located in an affected county; and

323 (ii) whose expansion area includes the area proposed for cross-county annexation.

324 (c) "Applicant" means a person intending to file an annexation petition proposing a
325 cross-county annexation.

326 (d) "Cross-county annexation" means the annexation of an area located in a county that
327 is not the county in which the proposed annexing municipality is located.

328 (e) "Specified public utility" means the same as that term is defined in [Section](#)
329 [10-9a-103](#).

330 (2) An applicant may not file a petition under [Section 10-2-403](#) proposing a cross-
331 county annexation unless:

332 (a) the applicant sends a written notice of intent to file a petition proposing a
333 cross-county annexation to the legislative body of each affected municipality describing:

334 (i) the area proposed for cross-county annexation; and

335 (ii) the proposed annexing municipality;

336 (b) the proposed annexing municipality adopts or amends the municipality's annexation
337 policy plan under Section 10-2-401.5 to include the area proposed for cross-county annexation
338 within the proposed annexing municipality's expansion area;

339 (c) the applicant files a request to approve the proposed cross-county annexation with
340 the legislative body of the affected county:

341 (i) no sooner than 90 days after the day on which the applicant sends the written notice
342 described in Subsection (2)(a) to each affected municipality; and

343 (ii) no later than 180 days after the day on which the applicant sends the written notice
344 described in Subsection (2)(a) to each affected municipality;

345 (d) a feasibility consultant conducts a feasibility study in accordance with Subsection
346 (3), unless the feasibility study is waived under Subsection (3)(b); and

347 (e) the legislative body of the affected county:

348 (i) holds a public hearing in accordance with Subsection (4); and

349 (ii) adopts the resolution described in Subsection (4)(a)(iii)(A).

350 (3) (a) Within 30 days after the day on which a legislative body of an affected county
351 receives the request described in Subsection (2)(c), or within a time period longer than 30 days
352 if agreed to by the legislative body of the affected county and the applicant, the legislative body
353 of the affected county and the applicant shall jointly select and engage a feasibility consultant
354 to:

355 (i) conduct a feasibility study on the proposed cross-county annexation; and

356 (ii) submit written results of the feasibility study to the legislative body of the affected
357 county and the applicant no later than 30 days after the day on which the feasibility consultant
358 is engaged to conduct the feasibility study.

359 (b) The legislative body of the affected county may waive the requirement for a
360 feasibility study under Subsection (3)(a).

361 (c) The feasibility study under Subsection (3)(a) shall determine:

362 (i) whether the proposed cross-county annexation eliminates, leaves, or creates an
363 unincorporated island or unincorporated peninsula;

364 (ii) the fiscal impact of the proposed cross-county annexation on:

365 (A) the affected county;

366 (B) affected municipalities;

367 (C) specified public utilities that serve the area proposed for cross-county annexation;
368 and
369 (D) affected entities;
370 (iii) the estimated cost that the proposed annexing municipality would incur to provide
371 governmental services in the area proposed for cross-county annexation during the current
372 fiscal year;
373 (iv) the estimated revenue that the proposed annexing municipality would receive from
374 the area proposed for cross-county annexation during the current fiscal year; and
375 (v) (A) each entity that has provided municipal-type services in the area proposed for
376 cross-county annexation;
377 (B) the methods under which each entity described in Subsection (3)(c)(v)(A) has
378 provided municipal-type services in the area proposed for cross-county annexation; and
379 (C) the feasibility of the proposed annexing municipality providing municipal-type
380 services in the area proposed for cross-county annexation.
381 (d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that
382 the ad valorem property tax rate on property within the area proposed for cross-county
383 annexation is the same property tax rate that the proposed annexing municipality currently
384 imposes on property within the municipality.
385 (e) The applicant and the affected county shall share equally the feasibility consultant
386 fees and expenses.
387 (4) (a) A legislative body of an affected county shall hold, within 30 days after the day
388 on which the legislative body receives the written results of the feasibility study under
389 Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a
390 public hearing to:
391 (i) determine whether the requirements described in Subsections (2)(a) and (b) have
392 been met;
393 (ii) consider the results of the feasibility study under Subsection (3)(a), unless the
394 feasibility study is waived under Subsection (3)(b); and
395 (iii) (A) adopt a resolution approving the proposed cross-county annexation; or
396 (B) adopt a resolution rejecting the proposed cross-county annexation.
397 (b) The legislative body of the affected county shall send, at least 15 days before the

398 day on which the public hearing described in Subsection (4)(a) occurs, written notice of the
399 public hearing to:

400 (i) the applicant;

401 (ii) each residence within, and to each owner of real property located within:

402 (A) the area proposed for cross-county annexation; and

403 (B) 300 feet of the area proposed for cross-county annexation;

404 (iii) the legislative body of:

405 (A) the proposed annexing municipality; and

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

407 (iv) each specified public utility that serves the area proposed for cross-county

408 annexation;

409 (v) each affected municipality; and

410 (vi) each affected entity.

411 (c) At the public hearing described in Subsection (4)(a), the legislative body of the

412 affected county shall allow the individuals present to speak to the proposed cross-county

413 annexation.

414 (d) A legislative body of an affected county may not adopt a resolution rejecting a

415 proposed cross-county annexation under this section unless the legislative body determines

416 that:

417 (i) the requirements described in Subsections (2)(a) and (b) have not been met; or

418 (ii) the results of the feasibility study under Subsection (3)(a) show that:

419 (A) the proposed cross-county annexation would impose a substantial burden on the

420 affected county; and

421 (B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to

422 provide governmental services under Subsection (3)(c)(iii) by more than 5%.

423 (e) A legislative body of an affected county that adopts a resolution rejecting a

424 proposed cross-county annexation under this section shall provide to the applicant a written

425 explanation of the legislative body's decision.

426 (f) A legislative body of an affected county may adopt a resolution approving a

427 proposed cross-county annexation under this section regardless of the results of a feasibility

428 study under Subsection (3)(a).

429 (5) (a) A party adversely affected by a legislative body of an affected county's decision
430 under Subsection (4)(a) may, within 30 days after the day on which the legislative body issues
431 the legislative body's decision, file a petition for review of the decision in the district court with
432 jurisdiction in the affected county.

433 (b) The district court shall defer to the legislative body of the affected county's decision
434 under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or
435 unlawful.

436 (6) Section 10-2-418 does not apply to a cross-county annexation.

437 Section 5. Section 10-2-403 is amended to read:

438 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

439 (1) Except as provided in Section 10-2-418, the process to annex an unincorporated
440 area to a municipality is initiated by a petition as provided in this section.

441 (2) (a) (i) Before filing a petition under Subsection (1) [~~with respect to the proposed~~
442 ~~annexation of an area located in a county of the first class~~], the person or persons intending to
443 file a petition shall:

444 (A) file with the city recorder or town clerk of the proposed annexing municipality a
445 notice of intent to file a petition; and

446 (B) send a copy of the notice of intent to each affected entity.

447 (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the
448 area that is proposed to be annexed.

449 (b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be
450 annexed is located shall:

451 (A) mail the notice described in Subsection (2)(b)(iii) to:

452 (I) each owner of real property located within the area proposed to be annexed; and

453 (II) each owner of real property located within 300 feet of the area proposed to be
454 annexed; and

455 (B) send to the proposed annexing municipality a copy of the notice and a certificate
456 indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

457 (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20
458 days after receiving from the person or persons who filed the notice of intent:

459 (A) a written request to mail the required notice; and

460 (B) payment of an amount equal to the county's expected actual cost of mailing the
461 notice.

462 (iii) Each notice required under Subsection (2)(b)(i)(A) shall:

463 (A) be in writing;

464 (B) state, in bold and conspicuous terms, substantially the following:

465 "Attention: Your property may be affected by a proposed annexation.

466 Records show that you own property within an area that is intended to be included in a
467 proposed annexation to (state the name of the proposed annexing municipality) or that is within
468 300 feet of that area. If your property is within the area proposed for annexation, you may be
469 asked to sign a petition supporting the annexation. You may choose whether to sign the
470 petition. By signing the petition, you indicate your support of the proposed annexation. If you
471 sign the petition but later change your mind about supporting the annexation, you may
472 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk
473 of (state the name of the proposed annexing municipality) within 30 days after (state the name
474 of the proposed annexing municipality) receives notice that the petition has been certified.

475 There will be no public election on the proposed annexation because Utah law does not
476 provide for an annexation to be approved by voters at a public election. Signing or not signing
477 the annexation petition is the method under Utah law for the owners of property within the area
478 proposed for annexation to demonstrate their support of or opposition to the proposed
479 annexation.

480 You may obtain more information on the proposed annexation by contacting (state the
481 name, mailing address, telephone number, and email address of the official or employee of the
482 proposed annexing municipality designated to respond to questions about the proposed
483 annexation), (state the name, mailing address, telephone number, and email address of the
484 county official or employee designated to respond to questions about the proposed annexation),
485 or (state the name, mailing address, telephone number, and email address of the person who
486 filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the
487 notice of intent, one of those persons). Once filed, the annexation petition will be available for
488 inspection and copying at the office of (state the name of the proposed annexing municipality)
489 located at (state the address of the municipal offices of the proposed annexing municipality).";
490 and

491 (C) be accompanied by an accurate map identifying the area proposed for annexation.

492 (iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any
493 other information or materials related or unrelated to the proposed annexation.

494 (c) (i) After receiving the certificate from the county as provided in Subsection
495 (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons
496 who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for
497 the annexation proposed in the notice of intent.

498 (ii) An annexation petition provided by the proposed annexing municipality may be
499 duplicated for circulation for signatures.

500 (3) Each petition under Subsection (1) shall:

501 (a) be filed with the applicable city recorder or town clerk of the proposed annexing
502 municipality;

503 (b) contain the signatures of, if all the real property within the area proposed for
504 annexation is owned by a public entity other than the federal government, the owners of all the
505 publicly owned real property, or the owners of private real property that:

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

507 (ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area
508 within the area proposed for annexation;

509 (B) covers 100% of rural real property [~~as that term is defined in Section 17B-2a-1107~~]
510 within the area proposed for annexation; and

511 (C) covers 100% of the private land area within the area proposed for annexation, if the
512 area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture,
513 Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production
514 area created under Title 23, Chapter 28, Migratory Bird Production Area; and

515 (iii) is equal in value to at least 1/3 of the value of all private real property within the
516 area proposed for annexation;

517 (c) be accompanied by:

518 (i) an accurate and recordable map, prepared by a licensed surveyor in accordance with
519 Section 17-23-20, of the area proposed for annexation; and

520 (ii) a copy of the notice sent to affected entities as required under Subsection
521 (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

522 (d) ~~[if the area proposed to be annexed is located in a county of the first class,]~~ contain
523 on each signature page a notice in bold and conspicuous terms that states substantially the
524 following:

525 "Notice:

526 • There will be no public election on the annexation proposed by this petition because
527 Utah law does not provide for an annexation to be approved by voters at a public election.

528 • If you sign this petition and later decide that you do not support the petition, you may
529 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk
530 of (state the name of the proposed annexing municipality). If you choose to withdraw your
531 signature, you shall do so no later than 30 days after (state the name of the proposed annexing
532 municipality) receives notice that the petition has been certified.";

533 (e) if the petition proposes ~~[the annexation of an area located in a county that is not the~~
534 ~~county in which the proposed annexing municipality is located]~~ a cross-county annexation, as
535 defined in Section 10-2-402.5, be accompanied by a copy of the resolution~~[, required under~~
536 ~~Subsection 10-2-402(6), of the legislative body of the county in which the area is located]~~
537 described in Subsection 10-2-402.5(4)(a)(iii)(A); and

538 (f) designate up to five of the signers of the petition as sponsors, one of whom shall be
539 designated as the contact sponsor, and indicate the mailing address of each sponsor.

540 (4) A petition under Subsection (1) may not propose the annexation of all or part of an
541 area proposed for annexation to a municipality in a previously filed petition that has not been
542 denied, rejected, or granted.

543 ~~[(5) (a) Except as provided in Subsection (5)(b), an annexation petition under~~
544 ~~Subsection (1) may not propose the annexation of an area that includes some or all of an area~~
545 ~~proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:]~~

546 ~~[(i) the request was filed before the filing of the annexation petition; and]~~

547 ~~[(ii) the request, or a petition under Section 10-2a-208 based on that request, is still~~
548 ~~pending on the date the annexation petition is filed.]~~

549 ~~[(b) Subsection (5)(a) does not apply to an annexation petition if:]~~

550 ~~[(i) the annexation petition proposes the annexation of an area included in a notice of~~
551 ~~intent described in Subsection (5)(c); or]~~

552 ~~[(ii) the annexation petition:]~~

553 ~~[(A) is filed on or after November 15, 2020; and]~~
 554 ~~[(B) proposes the annexation of an area located in a county other than the first class.]~~
 555 ~~[(c) (i) A person intending to file a petition for annexation of an area located in a~~
 556 ~~county other than a first class county may, on or before August 5, 2020, file with the city~~
 557 ~~recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition~~
 558 ~~for annexation.]~~

559 ~~[(ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map~~
 560 ~~of the area that is proposed to be annexed.]~~

561 ~~[(6)] (5) If practicable and feasible, the boundaries of an area proposed for annexation~~
 562 ~~shall be drawn:~~

563 (a) along the boundaries of existing local districts and special service districts for
 564 sewer, water, and other services, along the boundaries of school districts whose boundaries
 565 follow city boundaries or school districts adjacent to school districts whose boundaries follow
 566 city boundaries, and along the boundaries of other taxing entities;

567 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type
 568 services;

569 (c) to facilitate the consolidation of overlapping functions of local government;

570 (d) to promote the efficient delivery of services; and

571 (e) to encourage the equitable distribution of community resources and obligations.

572 ~~[(7)] (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the~~
 573 ~~petition to the clerk of the county in which the area proposed for annexation is located.~~

574 ~~[(8)] (7) A property owner who signs an annexation petition [~~proposing to annex an~~~~
 575 ~~area located in a county of the first class] may withdraw the owner's signature by filing a~~
 576 ~~written withdrawal, signed by the property owner, with the city recorder or town clerk no later~~
 577 ~~than 30 days after the municipal legislative body's receipt of the notice of certification under~~
 578 ~~Subsection 10-2-405(2)(c)(i).~~

579 Section 6. Section **10-2-405** is amended to read:

580 **10-2-405. Acceptance or denial of an annexation petition -- Petition certification**
 581 **process -- Modified petition.**

582 (1) (a) (i) A municipal legislative body may:

583 (A) subject to Subsection (1)(a)(ii), deny a petition filed under Section **10-2-403**; or

584 (B) accept the petition for further consideration under this part.

585 (ii) A petition shall be considered to have been accepted for further consideration under
586 this part if a municipal legislative body fails to act to deny or accept the petition under
587 Subsection (1)(a)(i):

588 (A) in the case of a city of the first or second class, within 14 days after the filing of the
589 petition; or

590 (B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township,
591 at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days
592 after the date the petition was filed.

593 (b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall,
594 within five days after the denial, mail written notice of the denial to:

595 (i) the contact sponsor; and

596 (ii) the clerk of the county in which the area proposed for annexation is located.

597 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is
598 considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town
599 clerk, as the case may be, shall, within 30 days after that acceptance:

600 (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the
601 area proposed for annexation is located the records the city recorder or town clerk needs to
602 determine whether the petition meets the requirements of Subsections 10-2-403(3)[;] and (4)[;
603 ~~and (5)~~];

604 (b) with the assistance of the municipal attorney, determine whether the petition meets
605 the requirements of Subsections 10-2-403(3)[;] and (4)[; ~~and (5)~~]; and

606 (c) (i) if the city recorder or town clerk determines that the petition meets those
607 requirements, certify the petition and mail or deliver written notification of the certification to
608 the municipal legislative body, the contact sponsor, and the county legislative body; or

609 (ii) if the city recorder or town clerk determines that the petition fails to meet any of
610 those requirements, reject the petition and mail or deliver written notification of the rejection
611 and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the
612 county legislative body.

613 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii),
614 the petition may be modified to correct the deficiencies for which it was rejected and then

615 refiled with the city recorder or town clerk, as the case may be.

616 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used
617 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as
618 modified under Subsection (3)(a)(i).

619 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city
620 recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a
621 newly filed petition under Subsection 10-2-403(1).

622 (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records
623 that a city recorder or town clerk requests under Subsection (2)(a).

624 Section 7. Section 10-2-407 is amended to read:

625 **10-2-407. Protest to annexation petition -- Planning advisory area planning**
626 **commission recommendation -- Petition requirements -- Disposition of petition if no**
627 **protest filed.**

628 (1) A protest to an annexation petition under Section 10-2-403 may be filed by:

629 (a) the legislative body or governing board of an affected entity;

630 (b) ~~the~~ an owner of rural real property ~~[as defined in Section 17B-2a-1107; or];~~

631 (c) for a proposed annexation of an area within a county of the first class, ~~[the owners]~~
632 an owner of private real property that:

633 (i) is located in the unincorporated area within 1/2 mile of the area proposed for
634 annexation;

635 (ii) covers at least 25% of the private land area located in the unincorporated area
636 within 1/2 mile of the area proposed for annexation; and

637 (iii) is equal in value to at least 15% of all real property located in the unincorporated
638 area within 1/2 mile of the area proposed for annexation~~[-]; or~~

639 (d) an owner of private real property located in a mining protection area.

640 (2) Each protest under Subsection (1) shall:

641 (a) be filed:

642 (i) no later than 30 days after the municipal legislative body's receipt of the notice of
643 certification under Subsection 10-2-405(2)(c)(i); and

644 (ii) (A) in a county that has already created a commission under Section 10-2-409, with
645 the commission; or

646 (B) in a county that has not yet created a commission under Section 10-2-409, with the
647 clerk of the county in which the area proposed for annexation is located;

648 (b) state each reason for the protest of the annexation petition and, if the area proposed
649 to be annexed is located in a specified county, justification for the protest under the standards
650 established in this chapter;

651 (c) if the area proposed to be annexed is located in a specified county, contain other
652 information that the commission by rule requires or that the party filing the protest considers
653 pertinent; and

654 (d) contain the name and address of a contact person who is to receive notices sent by
655 the commission with respect to the protest proceedings.

656 (3) The party filing a protest under this section shall on the same date deliver or mail a
657 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

658 (4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

659 (a) immediately notify the county legislative body of the protest; and

660 (b) deliver the protest to the boundary commission within five days after:

661 (i) receipt of the protest, if the boundary commission has previously been created; or

662 (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the
663 boundary commission has not previously been created.

664 (5) (a) If a protest is filed under this section:

665 (i) the municipal legislative body may, at its next regular meeting after expiration of
666 the deadline under Subsection (2)(a)(i), deny the annexation petition; or

667 (ii) if the municipal legislative body does not deny the annexation petition under
668 Subsection (5)(a)(i), the municipal legislative body may take no further action on the
669 annexation petition until after receipt of the commission's notice of its decision on the protest
670 under Section 10-2-416.

671 (b) If a municipal legislative body denies an annexation petition under Subsection
672 (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of
673 the denial in writing to:

674 (i) the contact sponsor of the annexation petition;

675 (ii) the commission; and

676 (iii) each entity that filed a protest.

677 (6) If no timely protest is filed under this section, the municipal legislative body may,
678 subject to Subsection (7), approve the petition.

679 (7) Before approving an annexation petition under Subsection (6), the municipal
680 legislative body shall hold a public hearing and publish notice of the public hearing:

681 (a) (i) at least seven days before the day of the public hearing in a newspaper of general
682 circulation within the municipality and the area proposed for annexation;

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

688 (iii) at least 10 days before the day of the public hearing by mailing the notice to each
689 residence within, and to each owner of real property located within, the combined area
690 described in Subsection (7)(a)(i);

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

693 (c) in accordance with Section 45-1-101, for seven days before the day of the public
694 hearing; and

695 (d) if the municipality has a website, on the municipality's website for seven days
696 before the day of the public hearing.

697 Section 8. Section 10-2-408 is amended to read:

698 **10-2-408. Denying or approving the annexation petition -- Notice of approval.**

699 (1) After receipt of the commission's decision on a protest under Subsection
700 10-2-416(2), a municipal legislative body may:

701 (a) deny the annexation petition; or

702 (b) subject to Subsection (2), if the commission approves the annexation, approve the
703 annexation petition consistent with the commission's decision.

704 (2) A municipal legislative body shall exclude:

705 (a) rural real property, [~~as that term is defined in Section 17B-2a-1107;~~] unless the
706 owner of the rural real property gives written consent to include the rural real property[:]; and

707 (b) private real property located in a mining protection area, unless the owner of the

708 private real property gives written consent to include the private real property.

709 Section 9. Section **10-2-414** is amended to read:

710 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

711 (1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of
712 an area located in a county of the first class do not meet the requirements of Subsection
713 **10-2-416(3)**, the sponsors of the annexation petition may, within 45 days of the feasibility
714 consultant's submission of the results of the study, file with the city recorder or town clerk of
715 the proposed annexing municipality a modified annexation petition altering the boundaries of
716 the proposed annexation.

717 (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the
718 sponsors of the annexation petition shall deliver or mail a copy of the modified annexation
719 petition to the clerk of the county in which the area proposed for annexation is located.

720 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the
721 requirements of Subsections **10-2-403(3)**[;] and (4)[, ~~and (5)~~].

722 (2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified
723 annexation petition, the city recorder or town clerk, as the case may be, shall follow the same
724 procedure for the modified annexation petition as provided under Subsections **10-2-405(2)** and
725 (3)(a) for an original annexation petition.

726 (b) If the city recorder or town clerk certifies the modified annexation petition under
727 Subsection **10-2-405(2)(c)(i)**, the city recorder or town clerk, as the case may be, shall send
728 written notice of the certification to:

729 (i) the commission;

730 (ii) each entity that filed a protest to the annexation petition; and

731 (iii) if a protest was filed under Subsection **10-2-407(1)(c)**, the contact person.

732 (c) (i) If the modified annexation petition proposes the annexation of an area that
733 includes part or all of a local district, special service district, or school district that was not
734 included in the area proposed for annexation in the original petition, the city recorder or town
735 clerk, as the case may be, shall also send notice of the certification of the modified annexation
736 petition to the board of the local district, special service district, or school district.

737 (ii) If the area proposed for annexation in the modified annexation petition is within
738 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the

739 area proposed for annexation in the original annexation petition, the city recorder or town
740 clerk, as the case may be, shall also send notice of the certification of the modified annexation
741 petition to the legislative body of that municipality.

742 (3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b),
743 the commission shall engage the feasibility consultant that conducted the feasibility study to
744 supplement the feasibility study to take into account the information in the modified
745 annexation petition that was not included in the original annexation petition.

746 (4) The commission shall require the feasibility consultant to complete the
747 supplemental feasibility study and to submit written results of the supplemental study to the
748 commission no later than 30 days after the feasibility consultant is engaged to conduct the
749 supplemental feasibility study.

750 Section 10. Section **10-2a-201.5** is amended to read:

751 **10-2a-201.5. Qualifications for incorporation.**

752 (1) (a) An area may incorporate as a town in accordance with this part if the area:

- 753 (i) subject to Subsection (1)(c), is contiguous;
- 754 (ii) has a population of at least 100 people, but fewer than 1,000 people; and
- 755 (iii) is not already part of a municipality.

756 (b) An area may incorporate as a city in accordance with this part if the area:

- 757 (i) subject to Subsection (1)(c), is contiguous;
- 758 (ii) has a population of 1,000 people or more; and
- 759 (iii) is not already part of a municipality.

760 (c) An area is not contiguous for purposes of Subsection (1)(a)(i) or (b)(i) if:

- 761 (i) the area includes a strip of land that connects geographically separate areas; and
- 762 (ii) the distance between the geographically separate areas is greater than the average
763 width of the strip of land connecting the geographically separate areas.

764 (2) (a) An area may not incorporate under this part if:

- 765 (i) the area has a population of fewer than 100 people; or
- 766 (ii) except as provided in Subsection (2)(b), the area has an average population density
767 of fewer than seven people per square mile.

768 (b) Subject to Subsection (1)(c), an area that does not comply with Subsection (2)(a)(ii)
769 may incorporate under this part if the noncompliance is necessary to connect separate areas that

770 share a demonstrable community interest.

771 (3) Subject to Subsection (1)(c), an area incorporating under this part may not include
772 land owned by the United States federal government unless:

773 (a) incorporating the land is necessary to connect separate areas that share a
774 demonstrable community interest; or

775 (b) excluding the land from the incorporating area would create an unincorporated
776 island within the proposed municipality.

777 (4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part
778 may not include some or all of an area proposed for annexation in an annexation petition under
779 Section 10-2-403 that:

780 (i) was filed before the filing of the request for a feasibility study, described in Section
781 10-2a-202, relating to the incorporating area; and

782 (ii) is still pending on the date the request for the feasibility study described in
783 Subsection (4)(a)(i) is filed.

784 (b) A request for a feasibility study may propose for incorporation an area that includes
785 some or all of an area proposed for annexation in an annexation petition described in
786 Subsection (4)(a) if:

787 (i) the proposed annexation area that is part of the area proposed for incorporation does
788 not exceed 20% of the area proposed for incorporation;

789 (ii) the request complies with Subsections 10-2a-202(1) and (2) with respect to
790 excluding the proposed annexation area from the area proposed for incorporation; and

791 (iii) excluding the area proposed for annexation from the area proposed for
792 incorporation would not cause the area proposed for incorporation to not be contiguous under
793 Subsection (1)(c).

794 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider
795 each request to which Subsection (4)(b) applies as not proposing the incorporation of an area
796 proposed for annexation.

797 (5) (a) An area incorporating under this part may not include part of a parcel of real
798 property and exclude part of that same parcel unless the owner of the parcel gives written
799 consent to exclude part of the parcel.

800 (b) A piece of real property that has more than one parcel number is considered to be a

801 single parcel for purposes of Subsection (5)(a) if owned by the same owner.

802 Section 11. Section **10-2a-203** is amended to read:

803 **10-2a-203. Notice to owner of property -- Exclusion of property from proposed**
804 **municipality.**

805 (1) As used in this section:

806 (a) "Assessed value" with respect to property means the value at which the property
807 would be assessed without regard to a valuation for agricultural use under Section [59-2-503](#).

808 (b) "Owner" means a person having an interest in real property, including an affiliate,
809 subsidiary, or parent company.

810 ~~[(2) Within seven calendar days after the day on which an individual files a request~~
811 ~~under Section [10-2a-202](#), the lieutenant governor shall send written notice of the proposed~~
812 ~~incorporation to each record owner of real property owning more than:]~~

813 ~~[(a) 1% of the assessed value of all property in the proposed incorporation boundaries;~~
814 ~~or]~~

815 ~~[(b) 10% of the total private land area within the proposed incorporation boundaries.]~~

816 ~~[(3) If an owner owns, controls, or manages more than 1% of the assessed value of all~~
817 ~~property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more~~
818 ~~of the total private land area in the proposed incorporation boundaries, the owner may request~~
819 ~~that the lieutenant governor exclude all or part of the property owned, controlled, or managed~~
820 ~~by the owner from the proposed boundaries by filing a notice of exclusion with the Office of~~
821 ~~the Lieutenant Governor:]~~

822 ~~[(a) that describes the property for which the owner requests exclusion; and]~~

823 ~~[(b) within 15 calendar days after the day on which the owner receives the notice~~
824 ~~described in Subsection (2).]~~

825 (c) "Specified landowner" means a record owner of real property who owns more than:

826 (i) 1% of the assessed value of all property within the boundaries of a proposed
827 incorporation; or

828 (ii) 10% of the total private land area within the boundaries of a proposed
829 incorporation.

830 (2) Within seven calendar days after the day on which an individual files a request for a
831 feasibility study under Section [10-2a-202](#), the lieutenant governor shall mail written notice of

832 the proposed incorporation to each residence within, and each owner of real property located
833 within:

834 (a) the proposed incorporation boundaries; and

835 (b) 300 feet of the proposed incorporation boundaries.

836 (3) A specified landowner may, within 30 calendar days after the day on which the
837 specified landowner receives notice under Subsection (2), request that the lieutenant governor
838 exclude all or part of the property owned by the specified landowner from the proposed
839 incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that
840 describes the property for which the specified landowner requests exclusion.

841 (4) The lieutenant governor shall exclude the property identified by [~~an owner~~] a
842 specified landowner under Subsection (3) from the proposed incorporation boundaries unless
843 the lieutenant governor finds by clear and convincing evidence that:

844 (a) the exclusion will leave an unincorporated island within the proposed municipality;
845 and

846 (b) the property receives from the county a majority of currently provided municipal
847 services.

848 (5) Within five days after the day on which the lieutenant governor makes a
849 determination on whether to exclude a property under Subsection (4), the lieutenant governor
850 shall mail or transmit [~~to the owner that requested the property's exclusion and to the contact~~
851 ~~sponsor~~] written notice of whether the property is excluded from the proposed incorporation
852 boundaries[-] to:

853 (a) the specified landowner that requested the property's exclusion; and

854 (b) the contact sponsor.

855 Section 12. Section **10-2a-206** is amended to read:

856 **10-2a-206. Modified request for feasibility study -- Supplemental feasibility**
857 **study.**

858 (1) (a) The sponsors of a feasibility study request may modify the request to alter the
859 boundaries of the proposed municipality and refile the modified request with the lieutenant
860 governor if:

861 (i) the results of the feasibility study do not comply with Subsection **10-2a-205(6)(a)**;

862 [~~or~~]

- 863 (ii) (A) the request complies with Subsection [10-2a-201.5\(4\)\(b\)](#);
- 864 (B) the annexation petition that proposed the annexation of an area that is part of the
865 area proposed for incorporation has been denied; and
- 866 (C) an incorporation petition based on the request has not been filed[-];
- 867 (iii) (A) the lieutenant governor completes the first public hearing described in
868 Subsection [10-2a-207\(4\)](#); and
- 869 (B) property is excluded from the proposed municipality in accordance with Subsection
870 [10-2a-207\(5\)\(b\)](#); or
- 871 (iv) before the time period for a specified landowner, as defined in Section [10-2a-203](#),
872 to request that the lieutenant governor exclude the specified landowner's property from the
873 proposed incorporation under Subsection [10-2a-207\(5\)\(a\)](#) has expired, a municipal legislative
874 body:
- 875 (A) approves an annexation petition proposing the annexation of an area that is part of
876 the area proposed for incorporation under Section [10-2-407](#) or [10-2-408](#); or
- 877 (B) adopts an ordinance approving the annexation of an area that is part of the area
878 proposed for incorporation under Section [10-2-418](#).
- 879 (b) (i) The sponsors of a feasibility study request may not file a modified request under
880 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits
881 the final results of the feasibility study under Subsection [10-2a-205\(3\)\(c\)](#).
- 882 (ii) The sponsors of a request may not file a modified request under Subsection
883 (1)(a)(ii) more than 18 months after filing the original request under Section [10-2a-202](#).
- 884 (iii) The sponsors of a request may not file a modified request under Subsection
885 (1)(a)(iii) more than 90 days after the day on which the lieutenant governor mails or transmits
886 written notice under Subsection [10-2a-207\(4\)\(c\)](#).
- 887 (iv) The sponsors of a request may not file a modified request under Subsection
888 (1)(a)(iv) more than 90 days after the day on which the municipal legislative body:
- 889 (A) approves the annexation petition under Section [10-2-407](#) or [10-2-408](#); or
- 890 (B) adopts the ordinance approving the annexation under Section [10-2-418](#).
- 891 (c) (i) Subject to Subsection (1)(c)(ii), each modified request under Subsection (1)(a)
892 shall comply with Subsections [10-2a-202\(1\)](#) and (2) and Subsection [10-2a-201.5\(4\)](#).
- 893 (ii) Notwithstanding Subsection (1)(c)(i), a signature on a request filed under Section

894 10-2a-202 may be used toward fulfilling the signature requirement of Subsection
895 10-2a-202(1)(a) for the request as modified under Subsection (1)(a), unless the modified
896 request proposes the incorporation of an area that is more than 20% larger or smaller than the
897 area described by the original request in terms of:

- 898 (A) private land area; or
- 899 (B) value of private real property.

900 (2) Within 20 days after the lieutenant governor's receipt of the modified request, the
901 lieutenant governor shall follow the same procedure under Subsection 10-2a-204(1) for the
902 modified request as for an original request.

903 (3) The timely filing of a modified request under Subsection (1) gives the modified
904 request the same processing priority under Subsection 10-2a-204(3) as the original request.

905 (4) Within 10 days after the day on which the lieutenant governor receives a modified
906 request under Subsection (1)(a) that relates to a request for which a feasibility study has already
907 been completed, the lieutenant governor shall commission the feasibility consultant who
908 conducted the feasibility study to conduct a supplemental feasibility study that accounts for the
909 modified request.

910 (5) The lieutenant governor shall require the feasibility consultant to:

911 (a) submit a draft of the supplemental feasibility study to each applicable person with
912 whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within
913 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental
914 study;

915 (b) allow each person to whom the consultant provided a draft under Subsection (5)(a)
916 to review and provide comment on the draft; and

917 (c) submit a completed supplemental feasibility study, to the following within 45 days
918 after the day on which the feasibility consultant is engaged to conduct the study:

- 919 (i) the lieutenant governor;
- 920 (ii) the county legislative body of the county in which the incorporation is proposed;
- 921 (iii) the contact sponsor; and
- 922 (iv) each person to whom the consultant provided a draft under Subsection (5)(a).

923 (6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study
924 do not comply with Subsection 10-2a-205(6)(a), the sponsors may further modify the request in

925 accordance with Subsection (1).

926 (b) Subsections (2), (4), and (5) apply to a modified request described in Subsection
927 (6)(a).

928 (c) The lieutenant governor shall consider a modified request described in Subsection
929 (6)(a) as an original request for a feasibility study for purposes of determining the modified
930 request's processing priority under Subsection [10-2a-204](#)(3).

931 Section 13. Section **10-2a-207** is amended to read:

932 **10-2a-207. Public hearings on feasibility study results -- Exclusions of property**
933 **from proposed municipality -- Notice of hearings.**

934 (1) As used in this section, "specified landowner" means the same as that term is
935 defined in Section [10-2a-203](#).

936 ~~[(+)]~~ (2) If the results of the feasibility study or supplemental feasibility study comply
937 with Subsection [10-2a-205](#)(6)(a), the lieutenant governor shall, after receipt of the results of the
938 feasibility study or supplemental feasibility study, conduct ~~[at least]~~ two public hearings[:] in
939 accordance with this section.

940 (3) (a) If an area proposed for incorporation is approved for annexation after the
941 feasibility study or supplemental feasibility study is conducted but before the lieutenant
942 governor conducts the first public hearing under Subsection (4), the lieutenant governor may
943 not conduct the first public hearing under Subsection (4) unless:

944 (i) the sponsors of the feasibility study file a modified request for a feasibility study in
945 accordance with Section [10-2a-206](#); and

946 (ii) the results of the supplemental feasibility study comply with Subsection
947 [10-2a-205](#)(6)(a).

948 (b) For purposes of Subsection (3)(a), an area is approved for annexation if a condition
949 described in Subsection [10-2a-206](#)(1)(a)(iv) occurs.

950 (4) The lieutenant governor shall conduct the first public hearing:

951 (a) within 60 days after the day on which the lieutenant governor receives the results
952 under Subsection (2) or (3)(a)(ii);

953 ~~[(b) at least seven days apart;]~~

954 ~~[(c) except in a proposed municipality that will be a city of the fifth class or a town, in~~
955 ~~geographically diverse locations;]~~

956 ~~[(d)]~~ (b) within or near the proposed municipality;
957 ~~[(e)]~~ (c) to allow the feasibility consultant to present the results of the feasibility study;
958 and

959 ~~[(f)]~~ (d) to inform the public about the results of the feasibility study.

960 (5) (a) Within 30 calendar days after the day on which the lieutenant governor
961 completes the first public hearing under Subsection (4), a specified landowner may request that
962 the lieutenant governor exclude all or part of the property owned by the specified landowner
963 from the proposed incorporation by filing a notice of exclusion with the Office of the
964 Lieutenant Governor that describes the property for which the specified landowner requests
965 exclusion.

966 (b) The lieutenant governor shall exclude the property identified by a specified
967 landowner under Subsection (5)(a) from the proposed incorporation boundaries unless the
968 lieutenant governor finds by clear and convincing evidence that:

969 (i) the exclusion will leave an unincorporated island within the proposed municipality;
970 and

971 (ii) the property receives from the county a majority of currently provided municipal
972 services.

973 (c) Within five days after the day on which the lieutenant governor determines whether
974 to exclude property under Subsection (5)(b), the lieutenant governor shall mail or transmit
975 written notice of whether property is excluded from the proposed municipality to:

976 (i) the specified landowner that requested the property's exclusion; and
977 (ii) the contact sponsor.

978 (d) (i) If the lieutenant governor excludes property from the proposed municipality
979 under Subsection (5)(b), or if an area proposed for incorporation is approved for annexation
980 within the time period for a specified landowner to request an exclusion under Subsection
981 (5)(a), the lieutenant governor may not conduct the second public hearing under Subsection (6),
982 unless:

983 (A) the sponsors of the feasibility study file a modified request for a feasibility study in
984 accordance with Section [10-2a-206](#); and

985 (B) the results of the supplemental feasibility study comply with Subsection
986 [10-2a-205\(6\)\(a\)](#).

987 (ii) For purposes of Subsection (5)(d)(i), an area is approved for annexation if a
 988 condition described in Subsection 10-2a-206(1)(a)(iv) occurs.

989 (6) The lieutenant governor shall conduct the second public hearing:

990 (a) (i) within 30 days after the day on which the time period described in Subsection
 991 (5)(a) expires, if Subsection (5)(d) does not apply; or

992 (ii) within 30 days after the day on which the lieutenant governor receives the results of
 993 the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d)
 994 applies;

995 (b) within or near the proposed municipality; and

996 (c) to allow the feasibility consultant to present the results of and inform the public
 997 about:

998 (i) the feasibility study presented to the public in the first public hearing under
 999 Subsection (4), if Subsection (5)(d) does not apply; or

1000 (ii) the supplemental feasibility study described in Subsection (5)(d)(i)(B), if
 1001 Subsection (5)(d) applies.

1002 ~~[(2)]~~ (7) At each public hearing [described in Subsection (1)] required under this
 1003 section, the lieutenant governor shall:

1004 (a) provide a map or plat of the boundary of the proposed municipality;

1005 (b) provide a copy of the applicable feasibility study for public review;

1006 (c) allow members of the public to express views about the proposed incorporation,
 1007 including views about the proposed boundaries; and

1008 (d) allow the public to ask the feasibility consultant questions about the applicable
 1009 feasibility study.

1010 ~~[(3)]~~ (8) The lieutenant governor shall publish notice of [the public hearings described
 1011 in Subsection (1)] each public hearing required under this section:

1012 (a) (i) at least once a week for three consecutive weeks before the [first] public hearing
 1013 in a newspaper of general circulation within the proposed municipality;

1014 (ii) if there is no newspaper of general circulation in the proposed municipality, at least
 1015 three weeks before the day of the [first] public hearing, by posting one notice, and at least one
 1016 additional notice per 2,000 population of the proposed municipality, in places within the
 1017 proposed municipality that are most likely to give notice to the residents within, and the owners

1018 of real property located within, the proposed municipality; or

1019 (iii) at least three weeks before the [first] public hearing, by mailing notice to each
1020 residence within, and each owner of real property located within, the proposed municipality;

1021 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
1022 before the day of the [first] public hearing;

1023 (c) in accordance with Section 45-1-101, for three weeks before the day of the [first]
1024 public hearing; and

1025 (d) on the lieutenant governor's website for three weeks before the day of the [first]
1026 public hearing.

1027 [~~(4)~~] (9) The last notice required to be published under Subsection [~~(3)~~] (8)(a)(i) shall
1028 be at least three days before the [first] public hearing [~~required under Subsection (1)~~].

1029 [~~(5)~~] (10) (a) Except as provided in Subsection [~~(5)~~] (10)(b), the notice described in
1030 Subsection [~~(3)~~] (8) shall:

1031 (i) include the feasibility study summary described in Subsection 10-2a-205(3)(c) [~~and~~
1032 ~~shall~~];

1033 (ii) indicate that a full copy of the study is available on the lieutenant governor's
1034 website and for inspection at the Office of the Lieutenant Governor[-]; and

1035 (iii) indicate that under no circumstances may property be excluded or annexed from
1036 the proposed incorporation after the time period specified in Subsection (5)(a) has expired, if
1037 the notice is for the first public hearing under Subsection (4).

1038 (b) Instead of publishing the [~~feasibility~~] feasibility summary under Subsection [~~(5)~~]
1039 (10)(a)(i), the lieutenant governor may publish a statement that specifies the following sources
1040 where a resident within, or the owner of real property located within, the proposed
1041 municipality, may view or obtain a copy of the [~~feasibility~~] feasibility study:

1042 (i) the lieutenant governor's website;

1043 (ii) the physical address of the Office of the Lieutenant Governor; and

1044 (iii) a mailing address and telephone number.

1045 Section 14. **Effective date.**

1046 If approved by two-thirds of all the members elected to each house, this bill takes effect
1047 upon approval by the governor, or the day following the constitutional time limit of Utah
1048 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

1049 the date of veto override.