

ANNEXATION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to municipal annexation.

Highlighted Provisions:

This bill:

- ▶ modifies the signature requirement for an annexation petition involving rural real property to require a rural real property owner's signature only when the rural real property is larger than 1,500 acres and consists of two or more tax parcels; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-2-401**, as last amended by Laws of Utah 2015, Chapter 352
- 10-2-403**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
- 10-2-407**, as last amended by Laws of Utah 2019, Chapter 255
- 10-2-408**, as last amended by Laws of Utah 2015, Chapter 352

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



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

29 **10-2-401. Definitions -- Property owner provisions.**

30 (1) As used in this part:

31 (a) "Affected entity" means:

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

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

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

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

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

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

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

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

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

54 (f) "Municipal selection committee" means a committee in each county composed of
55 the mayor of each municipality within that county.

56 (g) "Planning advisory area" means the same as that term is defined in Section
57 [17-27a-306](#).

58 (h) "Private," with respect to real property, means not owned by the United States or

59 any agency of the federal government, the state, a county, a municipality, a school district, a
 60 local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a
 61 special service district under Title 17D, Chapter 1, Special Service District Act, or any other
 62 political subdivision or governmental entity of the state.

63 (i) "Rural real property" means the same as that term is defined in Section
 64 17B-2a-1107.

65 ~~(j)~~ (j) "Specified county" means a county of the second, third, fourth, fifth, or sixth
 66 class.

67 ~~(j)~~ (k) "Unincorporated peninsula" means an unincorporated area:

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

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

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

74 (iv) whose width, at any point where a straight line may be drawn from a place where
 75 ~~(it)~~ the unincorporated area borders a municipality to another place where ~~(it)~~ the
 76 unincorporated area borders a municipality, is no more than 25% of the boundary of the area
 77 where ~~(it)~~ the unincorporated area borders a municipality.

78 ~~(k)~~ (l) "Urban development" means:

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

81 (ii) a commercial or industrial development for which cost projections exceed
 82 \$750,000 for all phases.

83 (2) For purposes of this part:

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

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

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

90 Military Installation Development Authority Act; and

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

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

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

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

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

102 (b) the signature of ~~[a person]~~ an individual signing a petition or protest in a
103 representative capacity on behalf of an owner is invalid unless:

104 (i) the ~~[person's]~~ individual's representative capacity and the name of the owner the
105 ~~[person]~~ individual represents are indicated on the petition or protest with the ~~[person's]~~
106 individual's signature; and

107 (ii) the ~~[person]~~ individual provides documentation accompanying the petition or
108 protest that substantiates the ~~[person's]~~ individual's representative capacity; and

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

111 Section 2. Section **10-2-403** is amended to read:

112 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

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

115 (2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed
116 annexation of an area located in a county of the first class, the person or persons intending to
117 file a petition shall:

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

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

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

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

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

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

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

129 (B) send to the proposed annexing municipality a copy of the notice and a certificate
130 indicating that the county mailed the notice [~~has been mailed~~] as required under Subsection
131 (2)(b)(i)(A).

132 (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20
133 days after [~~receiving~~] the day on which the county received from the person or persons [~~who~~]
134 that filed the notice of intent:

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

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

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

139 (A) be in writing;

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

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

142 Records show that you own property within an area that is intended to be included in a
143 proposed annexation to (state the name of the proposed annexing municipality) or that is within
144 300 feet of that area. If your property is within the area proposed for annexation, you may be
145 asked to sign a petition supporting the annexation. You may choose whether to sign the
146 petition. By signing the petition, you indicate your support of the proposed annexation. If you
147 sign the petition but later change your mind about supporting the annexation, you may
148 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk
149 of (state the name of the proposed annexing municipality) within 30 days after (state the name
150 of the proposed annexing municipality) receives notice that the petition has been certified.

151 There will be no public election on the proposed annexation because Utah law does not

152 provide for an annexation to be approved by voters at a public election. Signing or not signing
153 the annexation petition is the method under Utah law for the owners of property within the area
154 proposed for annexation to demonstrate their support of or opposition to the proposed
155 annexation.

156 You may obtain more information on the proposed annexation by contacting (state the
157 name, mailing address, telephone number, and email address of the official or employee of the
158 proposed annexing municipality designated to respond to questions about the proposed
159 annexation), (state the name, mailing address, telephone number, and email address of the
160 county official or employee designated to respond to questions about the proposed annexation),
161 or (state the name, mailing address, telephone number, and email address of the person who
162 filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the
163 notice of intent, one of those persons). Once filed, the annexation petition will be available for
164 inspection and copying at the office of (state the name of the proposed annexing municipality)
165 located at (state the address of the municipal offices of the proposed annexing municipality).";
166 and

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

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

170 (c) (i) After receiving the certificate from the county as provided in Subsection
171 (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons
172 ~~[who]~~ that filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation
173 petition for the annexation proposed in the notice of intent.

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

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

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

179 (b) ~~[contain the signatures of,]~~ if all the real property within the area proposed for
180 annexation is owned by a public entity other than the federal government, contain the
181 signatures of the owners of all the publicly owned real property~~[, or the owners of private real~~
182 ~~property that:]~~;

183 (c) contain the signatures of the owners of private real property that:
184 (i) is located within the area proposed for annexation;
185 (ii) (A) [~~subject to Subsection (3)(b)(ii)(C),~~] covers a majority of the private land area
186 within the area proposed for annexation;
187 (B) covers 100% of the rural real property [as that term is defined in Section
188 +7B-2a-1107] within the area proposed for annexation, if the rural real property is larger than
189 1,500 acres and consists of two or more tax parcels; and
190 (C) covers 100% of the private land area within the area proposed for annexation, if the
191 area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture,
192 Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production
193 area created under Title 23, Chapter 28, Migratory Bird Production Area; and
194 (iii) is equal in value to at least 1/3 of the value of all private real property within the
195 area proposed for annexation;
196 ~~(c)~~ (d) be accompanied by:
197 (i) an accurate and recordable map, prepared by a licensed surveyor, of the area
198 proposed for annexation; and
199 (ii) a copy of the notice sent to affected entities as required under Subsection
200 (2)(a)(i)(B) and a list of the affected entities to which the person or persons intending to file a
201 petition sent notice [~~was sent~~];
202 ~~(d)~~ (e) if the area proposed to be annexed is located in a county of the first class,
203 contain on each signature page a notice in bold and conspicuous terms that states substantially
204 the following:
205 "Notice:
206 • There will be no public election on the annexation proposed by this petition because
207 Utah law does not provide for an annexation to be approved by voters at a public election.
208 • If you sign this petition and later decide that you do not support the petition, you may
209 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk
210 of (state the name of the proposed annexing municipality). If you choose to withdraw your
211 signature, you shall do so no later than 30 days after (state the name of the proposed annexing
212 municipality) receives notice that the petition has been certified.";
213 ~~(e)~~ (f) if the petition proposes the annexation of an area located in a county that is not

214 the county in which the proposed annexing municipality is located, be accompanied by a copy
215 of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county
216 in which the area is located; and

217 ~~[(f)]~~ (g) designate up to five of the signers of the petition as sponsors, one of whom
218 shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

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

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

225 (i) the request was filed before the filing of the annexation petition; and

226 (ii) the request, or a petition under Section 10-2a-208 based on that request, is still
227 pending on the date the annexation petition is filed.

228 (b) Subsection (5)(a) does not apply to an annexation petition if:

229 (i) the annexation petition proposes the annexation of an area included in a notice of
230 intent described in Subsection (5)(c); or

231 (ii) the annexation petition:

232 (A) is filed on or after November 15, 2020; and

233 (B) proposes the annexation of an area located in a county other than the first class.

234 (c) (i) A person intending to file a petition for annexation of an area located in a county
235 other than a first class county may, on or before August 5, 2020, file with the city recorder or
236 town clerk of the proposed annexing municipality a notice of intent to file a petition for
237 annexation.

238 (ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map
239 of the area that is proposed to be annexed.

240 (6) If practicable and feasible, the boundaries of an area proposed for annexation shall
241 be drawn:

242 (a) along the boundaries of existing local districts and special service districts for
243 sewer, water, and other services, along the boundaries of school districts whose boundaries
244 follow city boundaries or school districts adjacent to school districts whose boundaries follow

245 city boundaries, and along the boundaries of other taxing entities;

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

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

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

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

251 (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the
252 petition to the clerk of the county in which the area proposed for annexation is located.

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

258 Section 3. Section 10-2-407 is amended to read:

259 **10-2-407. Protest to annexation petition -- Planning advisory area planning**
260 **commission recommendation -- Petition requirements -- Disposition of petition if no**
261 **protest filed.**

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

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

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

265 (c) for a proposed annexation of an area within a county of the first class, the owners of
266 private real property that:

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

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

271 (iii) is equal in value to at least 15% of all real property located in the unincorporated
272 area within 1/2 mile of the area proposed for annexation.

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

274 (a) be filed:

275 (i) no later than 30 days after the municipal legislative body's receipt of the notice of

276 certification under Subsection 10-2-405(2)(c)(i); and

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

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

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

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

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

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

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

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

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

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

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

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

298 (i) the municipal legislative body may, at ~~[its]~~ the municipal legislative body's next
299 regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation
300 petition; or

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

305 (b) If a municipal legislative body denies an annexation petition under Subsection
306 (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of

307 the denial in writing to:

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

309 (ii) the commission; and

310 (iii) each entity that filed a protest.

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

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

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

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

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

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

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

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

331 Section 4. Section 10-2-408 is amended to read:

332 **10-2-408. Denying or approving the annexation petition -- Notice of approval.**

333 (1) After receipt of the commission's decision on a protest under Subsection
334 10-2-416(2), a municipal legislative body may:

335 (a) deny the annexation petition; or

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

338 (2) A municipal legislative body shall exclude rural real property[, as that term is
339 ~~defined in Section 17B-2a-1107;~~] unless the owner of the rural real property gives written
340 consent to include the rural real property.