

HB0265S03 compared with HB0265

~~{deleted text}~~ shows text that was in HB0265 but was deleted in HB0265S03.

inserted text shows text that was not in HB0265 but was inserted into HB0265S03.

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Senator Curtis S. Bramble proposes the following substitute bill:

SENTINEL LANDSCAPE AND LOCAL LAND USE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: ~~{_____}~~ Curtis S. Bramble

LONG TITLE

General Description:

This bill ~~{restricts}~~ requires municipalities ~~{from annexing certain land near military installations}~~ and counties to develop a compatible use plan to ensure proposed land uses within a certain distance of military land are compatible with military uses.

Highlighted Provisions:

This bill:

- ▶ ~~{restricts municipalities from annexing land within 5,000 feet of a military boundary.~~

~~{defines terms:~~

- ▶ requires a municipality or county, in consultation with the Department of Veterans and Military Affairs, to develop a compatible use plan related to certain lands near military land;

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- requires a municipality or county to notify the Department of Veterans and Military Affairs when the municipality or county receives a land use application relevant to military land;
- requires the Department of Veterans and Military Affairs to evaluate the proposed land use for compatibility with military operations on the military land;
- grants rulemaking authority to the Department of Veterans and Military Affairs to make rules necessary to create a compatible use plan; and
- prohibits a political subdivision from restricting property owners of adjoining land from entering into an agreement to provide a right-of-way for the purpose of gaining a secondary access to an owner's property.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{10-2-402}~~ 10-9a-533, as enacted by Laws of Utah 2021, Chapter 385

17-27a-529, as enacted by Laws of Utah 2021, Chapter 385

71-8-2, as last amended by Laws of Utah ~~{2021, Chapter 112}~~ 2020, Chapter 409

ENACTS:

10-9a-537, Utah Code Annotated 1953

17-27a-533, Utah Code Annotated 1953

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

Section 1. Section ~~{10-2-402}~~ 10-9a-533 is amended to read:

~~{10-2-402}~~ 10-9a-533. ~~{Annexation -- Limitations. (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.~~

~~———— (b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless: (i) the unincorporated area is a contiguous area;~~

~~———— (ii) the unincorporated area is contiguous to the municipality; ——— (iii)~~

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~~annexation will not leave or create an unincorporated island or unincorporated peninsula: (A) except as provided in Subsection 10-2-418(3); or (B) unless the county and municipality have otherwise agreed; and (iv) for an area located in a specified county, the area is within the proposed annexing municipality's expansion area.~~

~~—— (c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if: (i) the area is within the annexing municipality's expansion area; (ii) the specified county in which the area is located and the annexing municipality agree to the annexation; (iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and (iv) the annexation is for the purpose of providing municipal services to the area.~~

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

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

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

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

~~—— (5) (a) Infrastructure improvements involving roadways.~~

~~(1) As used in this subsection, "expansion area urban development" means: (i) for a specified county, urban development within a city or town's expansion area; or (ii) for a county of the first class, urban development within a city or town's expansion area that:~~

~~—— (A) consists of 50 or more acres; (B) requires the county to change the zoning designation of the land on which the urban development is located; and (C) does not~~

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~~include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.~~

~~—— (b) A county legislative body may not approve expansion area urban development unless: —— (i) the county notifies the city or town of the proposed development; and —— (ii) (A) the city or town consents in writing to the development; —— (B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or —— (C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.~~

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

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

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

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

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

~~—— (c) (i) Except as provided in Subsection (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as~~

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if the Military Installation Development Authority was the sole private property owner within the area: ~~— (A) an area within a project area; — (B) an area that is contiguous to a project area and within the boundaries of a military installation; — (C) an area owned by the Military Installation Development Authority; and — (D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.~~

~~— (ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county: — (A) the annexation process shall follow the requirements for a specified county; and — (B) the provisions of Section 10-2-402.5 do not apply.~~

~~— (8) A municipality may not annex an unincorporated area if: — (a) the area is proposed for incorporation in: — (i) a feasibility study conducted under Section 10-2a-205; or (ii) a supplemental feasibility study conducted under Section 10-2a-206; — (b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and — (c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.~~

~~— (9) (a) As used in this Subsection (9): — (i) "Military" means a branch of the armed forces of the United States, including the Utah National Guard. — (ii) "Military land"~~section:

(a) "Low impact development" means the same as that term is defined in Section {63H-1-102, but} 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include { — (A) land or a facility under the jurisdiction of the United States Department of Veterans Affairs; or — (B) land that is otherwise already provided for} a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

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(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the municipality's general plan under Section 10-9a-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the municipality requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a municipality requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A municipality shall, by ordinance, establish any standards that the municipality requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The municipality shall ensure that the standards established under Subsection ~~(f7)~~ as part of a Military Installation Development Authority project area. ~~(b)3(a)~~ are consistent with the State Fire Code as defined in Section 15A-1-102.

(4) A municipality may not ~~annex an unincorporated area~~ restrict property owners of adjoining land, regardless of the municipality or county in which the land is located, from entering into an agreement to provide a right-of-way for the purpose of gaining a secondary access to an owner's property.

Section 2. Section **10-9a-537** is enacted to read:

10-9a-537. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

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- (i) Camp Williams;
- (ii) Hill Air Force Base;
- (iii) Dugway Proving Ground;
- (iv) Tooele Army Depot;
- (v) Utah Test and Training Range;
- (vi) Nephi Readiness Center;
- (vii) Cedar City Alternate Flight Facility; or
- (viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a municipality within 5,000 feet of a boundary of military land, a municipality shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land. ~~{ boundary unless the military authority with jurisdiction over}~~ (c) A military authority's approval may: ~~(i) limit a municipality's current and future authority to zone the annexed}~~ are compatible with the military operations on military land.

(b) A municipality that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a municipality receives a land use application, other than an individual building permit, related to land within 5,000 feet of ~~{the military land boundary to only allow for land uses identified by the military authority as being compatible with the current and projected future use of the military land; or~~ (ii) reduce the zoning limitation to less than 5,000 feet from the military land boundary. ~~(d) If no conditions are noted in the military authority's approval, then a municipality's zoning authority is unrestricted and may not later be limited by the military authority.~~ (c) If a municipality has petitioned the military authority for annexation approval and the military authority fails to respond to the municipality within 90 days from the date of the municipality's certified approval request, ~~{a boundary of military land, before the municipality may {proceed with annexation as if it received unconditional approval from the military authority.~~ (f) A municipality may petition the military authority to modify any limitation placed on an annexation approval if the military authority's use of the military land has substantially changed. ~~(g) (i) This subsection does not apply to an annexation approved before May 3, 2023, unless the annexation is not yet incorporated into a~~

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~~municipality's master zoning plan.~~ (ii) ~~If an annexation approved before May 3, 2023, is not incorporated into a municipality's master zoning before July 31, 2023, a municipality~~ approve the land use application, the municipality shall notify the department in writing.

(4) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(a) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(b) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the municipality regarding the determination of compatibility described in Subsection (4)(a).

(5) If the department receives the notice described in Subsection (3) before the municipality has completed the compatible use plan as described in this section, the department shall consult with the ~~{military authority to ensure zoning is compatible with military land use.~~ municipality and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 3. Section 17-27a-529 is amended to read:

17-27a-529. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the county's general plan under Section 17-27a-401;

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(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a county may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the county requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a county requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A county shall, by ordinance, establish any standards that the county requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The county shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

(4) A county may not restrict property owners of adjoining land, regardless of the municipality or county in which the land is located, from entering into an agreement to provide a right-of-way for the purpose of gaining a secondary access to an owner's property.

Section 4. Section 17-27a-533 is enacted to read:

17-27a-533. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

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(viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a county within 5,000 feet of a boundary of military land, a county shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A county that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a county receives a land use application, other than an individual building permit, related to land within 5,000 feet of a boundary of military land, before the county may approve the land use application, the county shall notify the department in writing.

(4) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(a) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(b) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the county regarding the determination of compatibility described in Subsection (4)(a).

(5) If the department receives the notice described in Subsection (3) before the county has completed the compatible use plan as described in this section, the department shall consult with the county and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 5. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for

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which a campaign medal has been authorized; ~~or~~

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title; ~~and~~

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department~~[-]~~; and

(g) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533.

(4) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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department shall make rules for the administration of grants, including establishing:

- (i) the form and process for submitting an application to the department;
 - (ii) the method and criteria for selecting a grant recipient;
 - (iii) the method and formula for determining a grant amount; and
 - (iv) the reporting requirements of a grant recipient.
- (d) A grant may be awarded by the department only after consultation with the

Veterans Advisory Council.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as
required in Subsection (3)(g); and

(b) criteria to evaluate whether a proposed land use is compatible with military
operations.

~~[(5)]~~ (6) Nothing in this chapter shall be construed as altering or preempting the
provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.