

MUNICIPAL INCORPORATION REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to a feasibility study for a proposed municipal incorporation.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements applicable to how a feasibility consultant conducts a feasibility study;
- ▶ modifies provisions relating to the criteria to determine whether an incorporation may proceed; and
- ▶ requires the lieutenant governor to engage a feasibility consultant to revise a feasibility study under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-205, as last amended by Laws of Utah 2023, Chapters 16, 224

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



28 Section 1. Section **10-2a-205** is amended to read:

29 **10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for**
30 **proceeding with incorporation.**

31 (1) Unless the lieutenant governor rescinds the certification under Subsection
32 **10-2a-204(7)(b)**, the lieutenant governor shall, within 90 days after the day on which the
33 lieutenant governor certifies a feasibility request under Subsection **10-2a-204(5)(a)**, in
34 accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

35 (2) The lieutenant governor shall:

36 (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah
37 Procurement Code;

38 (b) ensure that the feasibility consultant:

39 (i) has expertise in the processes and economics of local government; and

40 (ii) is not affiliated with a sponsor of the feasibility request or the county in which the
41 proposed municipality is located; and

42 (c) require the feasibility consultant to:

43 (i) submit a draft of the feasibility study to each applicable person with whom the
44 feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day
45 on which the lieutenant governor engages the feasibility consultant to conduct the study;

46 (ii) allow each person to whom the consultant provides a draft under Subsection
47 (2)(c)(i) to review and provide comment on the draft;

48 (iii) submit a completed feasibility study, including a one-page summary of the results,
49 to the following within 120 days after the day on which the lieutenant governor engages the
50 feasibility consultant to conduct the feasibility study:

51 (A) the lieutenant governor;

52 (B) the county legislative body of the county in which the incorporation is proposed;

53 (C) the contact sponsor; and

54 (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);

55 and

56 (iv) attend the public hearings described in Section **10-2a-207** to present the feasibility
57 study results and respond to questions from the public.

58 (3) (a) The feasibility study shall include:

- 59 (i) an analysis of the population and population density within the area proposed for
60 incorporation and the surrounding area;
- 61 (ii) the current and projected five-year demographics and tax base within the
62 boundaries of the proposed municipality and surrounding area, including household size and
63 income, commercial and industrial development, and public facilities;
- 64 (iii) subject to Subsection (3)(b), the current and five-year projected cost of providing
65 municipal services to the proposed municipality, including administrative costs;
- 66 (iv) assuming the same tax categories and tax rates as currently imposed by the county
67 and all other current service providers, the present and five-year projected revenue for the
68 proposed municipality;
- 69 (v) an analysis of the risks and opportunities that might affect the actual costs described
70 in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly
71 incorporated municipality;
- 72 (vi) an analysis of new revenue sources that may be available to the newly incorporated
73 municipality that are not available before the area incorporates, including an analysis of the
74 amount of revenues the municipality might obtain from those revenue sources;
- 75 (vii) the projected tax burden per household of any new taxes that may be levied within
76 the proposed municipality within five years after incorporation;
- 77 (viii) the fiscal impact of the municipality's incorporation on unincorporated areas,
78 other municipalities, special districts, special service districts, and other governmental entities
79 in the county; and
- 80 (ix) if the county clerk excludes property from, or includes property in, the proposed
81 municipality under Section 10-2a-204.5, an update to the map and legal description described
82 in Subsection 10-2a-202(2)(c).
- 83 (b) (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility
84 consultant shall:
 - 85 (A) assume the proposed municipality will provide a level and quality of municipal
86 services that fairly and reasonably approximate the level and quality of municipal services that
87 are provided to the area of the proposed municipality at the time the feasibility consultant
88 conducts the feasibility study[?]; and
 - 89 (B) apply an inflationary factor to projected costs based on a generally accepted price

90 index applicable to the costs under consideration.

91 (ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii),
92 the feasibility consultant shall consider:

93 (A) the amount it would cost the proposed municipality to provide the municipal
94 service for the first five years after the municipality's incorporation; and

95 (B) the current municipal service provider's present and five-year projected cost of
96 providing the municipal service.

97 (iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall
98 account for inflation and anticipated growth.

99 (c) In conducting the feasibility study, the feasibility consultant shall consult with the
100 following before submitting a draft of the feasibility study under Subsection (2)(c)(i):

101 (i) if the proposed municipality will include lands owned by the United States federal
102 government, the entity within the United States federal government that has jurisdiction over
103 the land;

104 (ii) if the proposed municipality will include lands owned by the state, the entity within
105 state government that has jurisdiction over the land;

106 (iii) each entity that provides a municipal service to a portion of the proposed
107 municipality; and

108 (iv) each other special service district that provides services to a portion of the
109 proposed municipality.

110 (4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the
111 five-year projected costs calculated under Subsection (3)(a)(iii) by more than ~~[5%]~~ 10%, the
112 feasibility consultant shall project and report the expected annual revenue surplus to the contact
113 sponsor and the lieutenant governor.

114 (5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study,
115 revised feasibility study under Subsection (7), or a supplemental feasibility study described in
116 Section 10-2a-206, show that the average annual amount of revenue calculated under
117 Subsection (3)(a)(iv) does not exceed the average annual cost calculated under Subsection
118 (3)(a)(iii) by more than ~~[5%]~~ 10%, the process to incorporate the area that is the subject of the
119 feasibility study or supplemental feasibility study may not proceed.

120 (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a

121 subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed
122 incorporation demonstrates compliance with Subsection (5)(a).

123 (6) If the results of the feasibility study or revised feasibility study do not comply with
124 Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall,
125 as part of the feasibility study or revised feasibility study, make recommendations regarding
126 how the boundaries of the proposed municipality may be altered to comply with Subsection
127 (5).

128 (7) (a) As used in this Subsection (7):

129 (i) "Pending feasibility study" means a feasibility study conducted under this section
130 for a pending incorporation.

131 (ii) "Pending incorporation" means a proposed incorporation:

132 (A) for which a feasibility study has been completed under this section; and

133 (B) that has not been the subject of an election under Section 10-2a-210.

134 (b) The lieutenant governor shall engage the feasibility consultant that conducted a
135 pending feasibility study to reopen the original feasibility study and revise the feasibility study
136 to ensure compliance with the requirements of this section.

137 [~~7~~] (8) The lieutenant governor shall post a copy of the feasibility study, and any
138 supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's
139 website and make a copy available for public review at the lieutenant governor's office.

140 Section 2. **Effective date.**

141 This bill takes effect on May 1, 2024.