

**Senator Daniel McCay** proposes the following substitute bill:

**MUNICIPAL INCORPORATION REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies the population figures applicable to certain classes of municipalities;
- ▶ 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.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-2-301**, as last amended by Laws of Utah 2003, Chapter 292

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



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

Section 1. Section **10-2-301** is amended to read:

**10-2-301. Classification of municipalities according to population.**

(1) Each municipality shall be classified according to its population, as provided in this section.

(2) (a) A municipality with a population of 100,000 or more is a city of the first class.

(b) A municipality with a population of 65,000 or more but less than 100,000 is a city of the second class.

(c) A municipality with a population of 30,000 or more but less than 65,000 is a city of the third class.

(d) A municipality with a population of 10,000 or more but less than 30,000 is a city of the fourth class.

(e) A municipality with a population of [~~1,000~~] 750 or more but less than 10,000 is a city of the fifth class.

(f) A municipality with a population under [~~1,000~~] 750 is a town.

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

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

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

(2) The lieutenant governor shall:

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

(b) ensure that the feasibility consultant:

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

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

(c) require the feasibility consultant to:

- 57 (i) submit a draft of the feasibility study to each applicable person with whom the
- 58 feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day
- 59 on which the lieutenant governor engages the feasibility consultant to conduct the study;
- 60 (ii) allow each person to whom the consultant provides a draft under Subsection
- 61 (2)(c)(i) to review and provide comment on the draft;
- 62 (iii) submit a completed feasibility study, including a one-page summary of the results,
- 63 to the following within 120 days after the day on which the lieutenant governor engages the
- 64 feasibility consultant to conduct the feasibility study:
  - 65 (A) the lieutenant governor;
  - 66 (B) the county legislative body of the county in which the incorporation is proposed;
  - 67 (C) the contact sponsor; and
  - 68 (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);
- 69 and
- 70 (iv) attend the public hearings described in Section [10-2a-207](#) to present the feasibility
- 71 study results and respond to questions from the public.
- 72 (3) (a) The feasibility study shall include:
  - 73 (i) an analysis of the population and population density within the area proposed for
  - 74 incorporation and the surrounding area;
  - 75 (ii) the current and projected five-year demographics and tax base within the
  - 76 boundaries of the proposed municipality and surrounding area, including household size and
  - 77 income, commercial and industrial development, and public facilities;
  - 78 (iii) subject to Subsection (3)(b), the current and five-year projected cost of providing
  - 79 municipal services to the proposed municipality, including administrative costs;
  - 80 (iv) assuming the same tax categories and tax rates as currently imposed by the county
  - 81 and all other current service providers, the present and five-year projected revenue for the
  - 82 proposed municipality;
  - 83 (v) an analysis of the risks and opportunities that might affect the actual costs described
  - 84 in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly
  - 85 incorporated municipality;
  - 86 (vi) an analysis of new revenue sources that may be available to the newly incorporated
  - 87 municipality that are not available before the area incorporates, including an analysis of the

88 amount of revenues the municipality might obtain from those revenue sources;

89 (vii) the projected tax burden per household of any new taxes that may be levied within  
90 the proposed municipality within five years after incorporation;

91 (viii) the fiscal impact of the municipality's incorporation on unincorporated areas,  
92 other municipalities, special districts, special service districts, and other governmental entities  
93 in the county; and

94 (ix) if the county clerk excludes property from, or includes property in, the proposed  
95 municipality under Section 10-2a-204.5, an update to the map and legal description described  
96 in Subsection 10-2a-202(2)(c).

97 (b) (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility  
98 consultant shall:

99 (A) assume the proposed municipality will provide a level and quality of municipal  
100 services that fairly and reasonably approximate the level and quality of municipal services that  
101 are provided to the area of the proposed municipality at the time the feasibility consultant  
102 conducts the feasibility study[-]; and

103 (B) apply an inflationary factor to projected costs based on a generally accepted price  
104 index applicable to the costs under consideration.

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

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

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

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

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

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

118 (ii) if the proposed municipality will include lands owned by the state, the entity within

119 state government that has jurisdiction over the land;

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

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

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

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

134 (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a  
135 subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed  
136 incorporation demonstrates compliance with Subsection (5)(a).

137 (6) If the results of the feasibility study or revised feasibility study do not comply with  
138 Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall,  
139 as part of the feasibility study or revised feasibility study, make recommendations regarding  
140 how the boundaries of the proposed municipality may be altered to comply with Subsection  
141 (5).

142 (7) The lieutenant governor shall post a copy of the feasibility study, and any  
143 supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's  
144 website and make a copy available for public review at the lieutenant governor's office.

145 Section 3. **Effective date.**

146 This bill takes effect on May 1, 2024.