

MUNICIPAL ANNEXATION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions relating to municipal annexation.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality from proposing the annexation of certain areas; and
- ▶ requires county consent to any municipal annexation that does not require an annexation petition.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-403, as last amended by Laws of Utah 2019, Chapter 165**10-2-418**, as last amended by Laws of Utah 2019, Chapter 255

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **10-2-403** is amended to read:**10-2-403. Annexation petition -- Requirements -- Notice required before filing.**(1) Except as provided in Section **10-2-418**, the process to annex an unincorporated

area to a municipality is initiated by a petition as provided in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) be in writing;

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

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

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you

sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

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

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

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

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

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

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

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

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

90 municipality;

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

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

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

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

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

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

105 (c) be accompanied by:

106 (i) an accurate and recordable map, prepared by a licensed surveyor, of the area
107 proposed for annexation; and

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

110 (d) if the area proposed to be annexed is located in a county of the first class, contain
111 on each signature page a notice in bold and conspicuous terms that states substantially the
112 following:

113 "Notice:

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

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

(e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

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

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

(5) A petition under Subsection (1) ~~[proposing the annexation of an area located in a county of the first class]~~ may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:

(a) the request ~~[or petition]~~ was filed before the filing of the annexation petition; and
(b) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed.

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

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

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

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

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

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

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

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written

withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 2. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) the county in which the unincorporated area is located, subject to Subsection (4)(b), and the municipality agree to the annexation; and

~~[(a)-(i)]~~ (b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

~~[(i)]~~ (B) the majority of each island or peninsula consists of residential or commercial development;

~~[(iii)]~~ (C) the area proposed for annexation requires the delivery of municipal-type services; and

~~[(iv)]~~ (D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

~~[(b)-(i)]~~ (ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

~~[(i)]~~ (B) the municipality has provided one or more municipal-type services to the area for at least one year;

~~[(c)-(i)]~~ (iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; ~~[and]~~ or

~~[(ii) the county in which the area is located, subject to Subsection (4)(b), and the municipality agree that the area should be included within the municipality; or]~~

~~[(d)-(i)]~~ (iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

~~[(ii)]~~ (B) the area to be annexed is located in the expansion area of a municipality; and

~~[(iii)]~~ (C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that~~[:]~~ the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

~~[(A) the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice; and]~~

~~[(B) after the public hearing the county legislative body may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed.]~~

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)~~[(i)]~~(ii) relating to the number of residents.

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is

property owners who own:

(i) the majority of the total private land area within the area proposed for annexation;
and

(ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the

245 owners of real property located within, the combined area; or
246 (iii) at least three weeks before the day of the public hearing, by mailing notice to each
247 residence within, and each owner of real property located within, the combined area described
248 in Subsection (6)(a)(i);
249 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
250 before the day of the public hearing;
251 (c) in accordance with Section 45-1-101, for three weeks before the day of the public
252 hearing;
253 (d) by sending written notice to:
254 (i) the board of each local district and special service district whose boundaries contain
255 some or all of the area proposed for annexation; and
256 (ii) the legislative body of the county in which the area proposed for annexation is
257 located; and
258 (e) if the municipality has a website, on the municipality's website for three weeks
259 before the day of the public hearing.
260 (7) The legislative body of the annexing municipality shall ensure that:
261 (a) each notice described in Subsection (6):
262 (i) states that the municipal legislative body has adopted a resolution indicating its
263 intent to annex the area proposed for annexation;
264 (ii) states the date, time, and place of the public hearing described in Subsection (5)(b);
265 (iii) describes the area proposed for annexation; and
266 (iv) except for an annexation that meets the property owner consent requirements of
267 Subsection (8)(b) or the recommendation of annexation requirements of Subsection (8)(c),
268 states in conspicuous and plain terms that the municipal legislative body will annex the area
269 unless, at or before the public hearing described in Subsection (5)(b), written protests to the
270 annexation are filed by the owners of private real property that:
271 (A) is located within the area proposed for annexation;
272 (B) covers a majority of the total private land area within the entire area proposed for
273 annexation; and
274 (C) is equal in value to at least 1/2 the value of all private real property within the
275 entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

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

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed that comply with Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex

338 some or all of the remaining portion of the unincorporated island.

339 Section 3. **Effective date.**

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