

MUNICIPAL ANNEXATION AMENDMENTS

2020 FIFTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: David G. Buxton

House Sponsor: Steve Waldrip

LONG TITLE**General Description:**

This bill amends provisions related to municipal annexation.

Highlighted Provisions:

This bill:

- clarifies the applicability of certain limitations regarding the annexation of an area proposed for incorporation; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-401.5, as enacted by Laws of Utah 2001, Chapter 206**10-2-403**, as last amended by Laws of Utah 2020, Chapter 139

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **10-2-401.5** is amended to read:**10-2-401.5. Annexation policy plan.**

(1) After December 31, 2002, no municipality may annex an unincorporated area



located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.

(2) To adopt an annexation policy plan:

(a) the planning commission shall:

(i) prepare a proposed annexation policy plan that complies with Subsection (3);

(ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;

(iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;

(iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);

(v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);

(vi) hold a public hearing on the proposed annexation policy plan;

(vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;

(viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and

(ix) submit its recommended annexation policy plan to the municipal legislative body; and

(b) the municipal legislative body shall:

(i) hold a public hearing on the annexation policy plan recommended by the planning commission;

(ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;

(iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and

(iv) adopt the recommended annexation policy plan, with or without modifications.

- 59 (3) Each annexation policy plan shall include:
- 60 (a) a map of the expansion area which may include territory located outside the county
- 61 in which the municipality is located;
- 62 (b) a statement of the specific criteria that will guide the municipality's decision
- 63 whether or not to grant future annexation petitions, addressing matters relevant to those criteria
- 64 including:
- 65 (i) the character of the community;
- 66 (ii) the need for municipal services in developed and undeveloped unincorporated
- 67 areas;
- 68 (iii) the municipality's plans for extension of municipal services;
- 69 (iv) how the services will be financed;
- 70 (v) an estimate of the tax consequences to residents both currently within the municipal
- 71 boundaries and in the expansion area; and
- 72 (vi) the interests of all affected entities;
- 73 (c) justification for excluding from the expansion area any area containing urban
- 74 development within 1/2 mile of the municipality's boundary; and
- 75 (d) a statement addressing any comments made by affected entities at or within 10 days
- 76 after the public meeting under Subsection (2)(a)(ii).
- 77 (4) In developing, considering, and adopting an annexation policy plan, the planning
- 78 commission and municipal legislative body shall:
- 79 (a) attempt to avoid gaps between or overlaps with the expansion areas of other
- 80 municipalities;
- 81 (b) consider population growth projections for the municipality and adjoining areas for
- 82 the next 20 years;
- 83 (c) consider current and projected costs of infrastructure, urban services, and public
- 84 facilities necessary:
- 85 (i) to facilitate full development of the area within the municipality; and
- 86 (ii) to expand the infrastructure, services, and facilities into the area being considered
- 87 for inclusion in the expansion area;
- 88 (d) consider, in conjunction with the municipality's general plan, the need over the next
- 89 20 years for additional land suitable for residential, commercial, and industrial development;

(e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and

(f) be guided by the principles set forth in Subsection 10-2-403~~(5)~~(6).

(5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.

(6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

Section 2. 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).";

152 and

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

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

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

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

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

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

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

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

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

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

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

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

179 (c) be accompanied by:

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

182 (ii) a copy of the notice sent to affected entities as required under Subsection

(2)(a)(i)(B) and a list of the affected entities to which notice was sent;

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

"Notice:

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

- If you sign this petition and later decide that you do not support the petition, 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). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing 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 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 3. Effective date.

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