

Ronald M. Winterton proposes the following substitute bill:

Municipal Incorporation Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael L. Kohler

Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions relating to the incorporation of a preliminary municipality.

Highlighted Provisions:

This bill:

▸ provides that a person may not apply to incorporate an area as a preliminary municipality after February 15, 2025, until April 1, 2026.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

10-2a-502, as enacted by Laws of Utah 2024, Chapter 534

10-2a-505, as enacted by Laws of Utah 2024, Chapter 534

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

Section 1. Section **10-2a-502** is amended to read:

10-2a-502 . Incorporation of a preliminary municipality -- Feasibility request --

Requirements.

(1)(a) [A] Except as provided in Subsection (1)(b), a person may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with this section.

(b) A person may not file a feasibility request to incorporate an area as a preliminary municipality after February 15, 2025, until April 1, 2026.

(c) Subject to Subsection (6)(b), a person who, on or before February 15, 2025, files a feasibility request under this section may:

- 30 (i) modify the request after February 15, 2025, in accordance with Section 10-2a-505;
31 or
32 (ii) proceed in accordance with this part after February 15, 2025.
- 33 (2) Subject to ~~[Subsection]~~ Subsections (1) and (6), a person may file a feasibility request in
34 relation to an area that the person seeks to incorporate as a preliminary municipality if:
35 (a) the area is contiguous;
36 (b) no part of the area is within a county of the first class or second class;
37 (c) no part of the area is within, or within .25 miles of, a municipality;
38 (d) on the day on which the person files the feasibility request:
39 (i) the area is owned by no more than three persons, all of whom consent to
40 incorporation as a preliminary municipality; and
41 (ii) at least 50% of the area is undeveloped;
42 (e) the persons who sign the feasibility request intend to develop the area to the point
43 that:
44 (i) at least 100 individuals reside in the area;
45 (ii) the area will have an average population density of no less than seven individuals
46 per square mile, unless:
47 (A) a population density of less than seven individuals per square mile is
48 necessary in order to connect separate areas that share a demonstrable
49 community interest; and
50 (B) the average population of the area has a population density of no less than
51 seven individuals per square mile if the land necessary to connect the separate
52 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;
53 and
54 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
55 (f) the area does not include land owned by the United States government unless:
56 (i) the area, including the land owned by the United States government, is
57 contiguous; and
58 (ii)(A) incorporating the land is necessary to connect separate areas that share a
59 demonstrable community interest; or
60 (B) excluding the land from the area would create an unincorporated island within
61 the proposed preliminary municipality;
62 (g) the area is entirely within one county; and
63 (h) the feasibility request complies with Subsection (3).

- (3)(a) A proposed preliminary municipality area may not include all or part of a pending annexation area, unless:
- (i) the portion of the pending annexation area included in the proposed preliminary municipality area does not exceed 20% of the proposed preliminary municipality area; and
 - (ii) the feasibility request would comply with the requirements of this section regardless of whether the portion of the pending annexation area included in the proposed preliminary municipality area is excluded from, or remains included in, the proposed preliminary municipality area.
- (b) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study that qualifies to proceed under Subsection 10-2a-205(5)(a), unless:
- (i) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or
 - (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.
- (c) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.
- (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each feasibility request that includes an area described in Subsection (3)(a) as if the request does not include the area described in Subsection (3)(a).
- (5) A person who files a feasibility request under this section shall file the feasibility request with the lieutenant governor, including in the feasibility request:
- (a) the signatures of all owners of real property included in the proposed preliminary municipality area, showing that the owners consent to including the real property in the proposed preliminary municipality area;
 - (b) the name, address, and phone number of each owner signing the feasibility request;

- 98 (c) a designation of one individual who signs the feasibility request as the primary
99 sponsor contact for the feasibility request;
- 100 (d) a description of the proposed preliminary municipality area;
- 101 (e) an accurate map or plat, prepared by a licensed surveyor, showing:
- 102 (i) a legal description of the boundaries of the proposed preliminary municipality area
103 and each phase of the proposed preliminary municipality area;
- 104 (ii) all development planned for the proposed preliminary municipality area; and
105 (iii) that the first phase of the proposed preliminary municipality area is projected to
106 have at least 100 residents when completed; and
- 107 (f) a request that the lieutenant governor commission a study to determine the feasibility
108 of incorporating the area as a preliminary municipality.

109 (6)(a) The provisions of this part, providing for the incorporation of a preliminary
110 municipality, is a pilot project that ends on January 1, 2031.

- 111 (b) Except as provided in Subsection (7), a person may not file a feasibility request
112 under this part in a calendar year during which two or more requests have already
113 been filed in the state.

114 (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:

- 115 (a) the sponsors who file the request withdraw the request;
- 116 (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4)
117 or (5)(b), and the sponsors:
- 118 (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or
119 (ii) are prohibited from amending the feasibility request under Subsection 10-2a-503
120 (7)(c); or
- 121 (c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504
122 (5)(a) and the sponsors:
- 123 (i) do not timely file a modified feasibility request under Subsection 10-2a-505
124 (1)(b)(i); or
- 125 (ii) are prohibited from filing a modified feasibility request under Subsection
126 10-2a-505(3).

127 Section 2. Section **10-2a-505** is amended to read:

128 **10-2a-505 . Modified feasibility request -- Supplemental feasibility study.**

- 129 (1)(a) The sponsors of a feasibility request may modify the request to alter the
130 boundaries of the proposed preliminary municipality area and refile the modified
131 feasibility request with the lieutenant governor if:

- 132 (i) the results of the feasibility study do not comply with Subsection 10-2a-504(5)(a);
133 or
134 (ii)(A) the feasibility request complies with Subsection 10-2a-502(3)(a);
135 (B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed
136 the annexation of an area that is part of the proposed preliminary municipality
137 area has been denied; and
138 (C) a petition for incorporation described in Section 10-2a-507, based on the
139 feasibility request, has not been filed.
- 140 (b)(i) The sponsors of a feasibility request may not file a modified request under
141 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility
142 consultant submits the final results of the feasibility study under Subsection
143 10-2a-504(2)(c)(iii).
- 144 (ii) The sponsors of a feasibility request may not file a modified request under
145 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility
146 request under Section 10-2a-502.
- 147 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections [
148 ~~10-2a-502(1)~~] 10-2a-502(2) through (4).
- 149 (d) Within 20 days after the day on which the lieutenant governor receives the modified
150 request, the lieutenant governor shall follow the same procedure described in
151 Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an
152 original feasibility request.
- 153 (2) The timely filing of a modified feasibility request under Subsection (1) gives the
154 modified feasibility request the same processing priority under Subsection 10-2a-503(6)
155 as the original feasibility request.
- 156 (3) The sponsors of a feasibility request may not file a modified feasibility request under
157 Subsection (1)(a)(i) more than once.
- 158 (4) Within 10 days after the day on which the county clerk receives a modified feasibility
159 request under Subsection (1)(a) that relates to a request for which a feasibility study has
160 already been completed, the lieutenant governor shall commission the feasibility
161 consultant who conducted the feasibility study to conduct a supplemental feasibility
162 study that accounts for the modified feasibility request.
- 163 (5) The lieutenant governor shall require the feasibility consultant to:
164 (a) submit a draft of the supplemental feasibility study to each applicable person with
165 whom the feasibility consultant is required to consult under Subsection 10-2a-504

(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:

(i) the lieutenant governor;

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

(iii) the primary sponsor contact; and

(iv) each person to whom the consultant provided a draft under Subsection (5)(a).

(6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility study do not comply with Subsection 10-2a-504(4), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in Subsection (6)(a).

(c) The lieutenant governor shall consider a modified feasibility request described in Subsection (6)(a) as an original feasibility request for purposes of determining the modified feasibility request's processing priority under Subsection 10-2a-503(6).

Section 3. **Effective Date.**

This bill takes effect on May 7, 2025.

Section 4. **Retrospective operation.**

This bill has retrospective operation to February 15, 2025.