

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 128

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO CITIES; REPEALING SECTION 50-222, IDAHO CODE, RELATING TO ANNEX-  
2 ATION BY CITIES; AND AMENDING CHAPTER 2, TITLE 50, IDAHO CODE, BY THE AD-  
3 DITION OF A NEW SECTION 50-222, IDAHO CODE, TO ESTABLISH PROVISIONS RE-  
4 GARDING ANNEXATION OF LAND BY CITIES.  
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section [50-222](#), Idaho Code, be, and the same is hereby  
8 repealed.

9 SECTION 2. That Chapter 2, Title 50, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 50-222, Idaho Code, and to read as follows:

12 50-222. ANNEXATION BY CITIES. (1) Legislative intent. It is the in-  
13 tent of the legislature that the cities of this state annex land only with the  
14 consent of those owning the land targeted for annexation.

15 (2) Definitions. For purposes of this section:

16 (a) "Landowner" means a person owning real property in the area in-  
17 tended to be annexed.

18 (b) "Subject land" means an area intended to be annexed by a city pur-  
19 suant to this section.

20 (3) Requirements. No city of this state shall annex land unless and un-  
21 til the following requirements are met:

22 (a) The subject land is adjacent to the city, except as provided in sub-  
23 section (9) of this section;

24 (b) The city notifies each landowner of its intent to annex the subject  
25 land. Such notification shall:

26 (i) Include a summary of the annexation plan;

27 (ii) Advise landowners of their right to give or withhold consent;

28 (iii) Include a description of how consent can be made, where it  
29 should be filed, and the deadline for such filing, which shall be  
30 no later than forty-five (45) days after the date of notification;

31 (iv) Include information about where the entire record of the pro-  
32 posed annexation may be reviewed; and

33 (v) Include a legal description of the subject land and a simple  
34 map depicting the location of the subject land;

35 (c) The city publishes notice of its intent to annex the subject land.  
36 In providing notice, the city shall comply with the notice and hearing  
37 procedures governing a zoning district boundary change as set forth in  
38 chapter 65, title 67, Idaho Code, unless otherwise provided in this sec-  
39 tion, on the question of whether the subject land should be annexed and,  
40 if annexed, the zoning designation to be applied to the subject land.  
41 The initial notice of public hearing concerning the question of annexa-

1 tion and zoning shall be published in the official newspaper of the city  
2 no fewer than twenty-eight (28) days prior to the initial public hear-  
3 ing. All public hearing notices shall establish a time and procedure  
4 by which comments concerning the proposed annexation may be received in  
5 writing and heard;

6 (d) The city publishes a written annexation plan;

7 (e) Subsequent to publishing notice of intent and a written annexation  
8 plan, the city holds a public hearing on the proposed annexation, at  
9 which landowners and city residents are afforded a meaningful opportu-  
10 nity to testify for or against annexation; and

11 (f) At least two-thirds (2/3) of the landowners consent to annexation,  
12 as further provided in subsection (5) of this section.

13 (4) Written annexation plan. The written annexation plan required by  
14 subsection (3) of this section shall describe:

15 (a) The manner of providing tax-supported municipal services to the  
16 subject land;

17 (b) The changes in taxation and other costs that would result if the  
18 subject land were to be annexed;

19 (c) The means of providing fee-supported municipal services, if any, to  
20 the subject land;

21 (d) An analysis of the potential effects of annexation on other units of  
22 local government that currently provide tax-supported or fee-supported  
23 services to the subject land;

24 (e) The proposed future land use plan and zoning designation or desig-  
25 nations, subject to public hearing, for the subject land; and

26 (f) A statement of the public purposes that would support annexation.

27 (5) Consent. Consent to annex is valid only if evidenced by a written  
28 instrument executed by the landowner or the landowner's authorized agent.

29 (6) Ordinance. If all requirements provided in subsection (3) of this  
30 section are satisfied, then the city council may enact an annexation ordi-  
31 nance.

32 (7) Highways. In any annexation proceeding, all portions of highways  
33 lying wholly or partly in the subject area shall be included in the area an-  
34 nexed unless there is an express agreement otherwise between the city and the  
35 governing board of the highway agency providing road maintenance at the time  
36 of annexation.

37 (8) Fairgrounds. Property that is used as a fairground pursuant to the  
38 provisions of chapter 8, title 31, Idaho Code, or chapter 2, title 22, Idaho  
39 Code, shall not be annexed unless the annexation is approved by a majority of  
40 the board of county commissioners of the county in which the property lies.

41 (9) Airport. Subject to the provisions of this section, a city may an-  
42 nex land that is not adjacent to the city itself if such land is occupied by a  
43 municipally owned or operated airport or landing field. A city may not annex  
44 any land adjacent to the airport or landing field unless the land may other-  
45 wise be annexed pursuant to this section.

46 (10) Recreational area. Property owned by a nongovernmental entity and  
47 used to provide outdoor recreational activities to the public that has been  
48 designated as a planned unit development of fifty (50) acres or more and does  
49 not require or use any city services may not be annexed without the consent of  
50 the nongovernmental entity owner.

1           (11) Railroad right-of-way. A railroad right-of-way property may be  
2 annexed pursuant to this section only when property within the city adjoins  
3 or will adjoin both sides of the right-of-way.

4           (12) Judicial review. The decision of a city council to annex and zone  
5 land shall be subject to judicial review in accordance with the procedures  
6 provided in chapter 52, title 67, Idaho Code, and pursuant to the standards  
7 set forth in section 67-5279, Idaho Code. Any such appeal shall be filed by  
8 an affected person in the appropriate district court no later than twenty-  
9 eight (28) days after the date of publication of the annexation ordinance and  
10 shall be heard by the district court at the earliest practicable time.