

IN THE SENATE

SENATE BILL NO. 1062

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO CITY ANNEXATIONS; REPEALING SECTION 50-222, IDAHO CODE, RELAT-  
2 ING TO ANNEXATION BY CITIES; AMENDING CHAPTER 2, TITLE 50, IDAHO CODE,  
3 BY THE ADDITION OF A NEW SECTION 50-222, IDAHO CODE, TO ESTABLISH PRO-  
4 VISIONS REGARDING ANNEXATION OF LAND BY CITIES; AND DECLARING AN EMER-  
5 GENCY AND PROVIDING AN EFFECTIVE DATE.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

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9 repealed.

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

13 50-222. ANNEXATION BY CITIES. (1) Legislative intent. It is the in-  
14 tent of the legislature to honor the right of private landowners to have a  
15 voice in their own governance, to minimize conflict between citizens and mu-  
16 nicipalities, to provide a mechanism for the orderly development of Idaho  
17 cities, including the efficient and economically viable provision of tax-  
18 supported and fee-supported municipal services, to enable the orderly de-  
19 velopment of private lands that benefit from cost-effective availability of  
20 municipal services in urbanizing areas, and to equitably allocate the costs  
21 of public services in managing development on the urban fringe.

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

23 (a) "Consent" means a written document executed by the landowner or the  
24 landowner's authorized agent explicitly agreeing to annexation.

25 (b) "Contiguous" means sharing a common border. For the purpose of this  
26 section, land is not contiguous if the only common border is along a  
27 shoestring connection.

28 (c) "Landowner" means a person owning real property in the area pro-  
29 posed for annexation.

30 (d) "Planning and zoning commission" means the entity performing plan-  
31 ning and zoning duties for the city, which may be the city itself, a  
32 planning commission, a zoning commission, or a planning and zoning com-  
33 mission.

34 (e) "Subject land" means an area proposed for annexation by a city pur-  
35 suant to this section.

36 (3) Requirements. Except as provided in subsection (5) of this sec-  
37 tion, no city of this state shall annex land unless and until the following  
38 requirements are met:

39 (a) The subject land is contiguous to or surrounded by the city, except  
40 as provided in subsections (7), (9), and (11) of this section;

1 (b) The city notifies each landowner and the board of county commis-  
2 sioners of its intent to annex the subject land. Such notification  
3 shall:

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

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

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

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

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

13 (c) The city publishes notice of its intent to annex the subject land.  
14 In providing notice, the city shall comply with the notice and hearing  
15 procedures governing a zoning district boundary change as set forth in  
16 chapter 65, title 67, Idaho Code, unless otherwise provided in this sec-  
17 tion, on the question of whether the subject land should be annexed and,  
18 if annexed, the zoning designation to be applied to the subject land.  
19 The initial notice of public hearing concerning the question of annexa-  
20 tion and zoning shall be published in the official newspaper of the city  
21 and mailed by first class mail to every landowner of property included  
22 in the annexation proposal at least twenty-eight (28) days prior to the  
23 initial public hearing. All public hearing notices shall establish a  
24 time and procedure by which comments concerning the proposed annexation  
25 may be received in writing and heard;

26 (d) The city adopts a written annexation plan;

27 (e) Subsequent to publishing notice of intent and a written annexation  
28 plan, the city and the planning and zoning commission each holds a pub-  
29 lic hearing on the proposed annexation, pursuant to section 67-6525,  
30 Idaho Code, at which landowners and city residents are afforded a mean-  
31 ingful opportunity to testify for or against annexation. Provided,  
32 however, if a city performs its own planning and zoning functions with-  
33 out a commission, the two (2) public hearings required by this paragraph  
34 may be combined into one (1) public hearing, but in such case, the no-  
35 tice to landowners required by paragraph (c) of this subsection must be  
36 mailed at least forty-five (45) days prior to the public hearing; and

37 (f) Landowners representing two-thirds (2/3) of the parcels and at  
38 least fifty percent (50%) of the area proposed for annexation give vol-  
39 untary consent as defined in subsection (2) of this section and record  
40 such consent with the county recorder's office for the county in which  
41 the property is located.

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

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

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

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

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

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

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

7 (5) Exceptions.

8 (a) Landowner-initiated annexations. In the case of a prospective  
9 annexation that has been initiated voluntarily by the landowner or  
10 landowners of a contiguous parcel or parcels and when all landowners  
11 of the subject property have requested annexation, the provisions of  
12 subsections (3) and (4) of this section shall not apply. In such a case,  
13 the subject land may extend beyond the city area of impact if the land is  
14 contiguous to the city and the comprehensive plan includes the area of  
15 annexation. Lands need not be contiguous to the city limits at the time  
16 the landowner consents to annexation for the property to be subject to  
17 a valid consent to annex, but no annexation of lands may occur, regard-  
18 less of consent, until such land becomes contiguous to the city. Upon  
19 determining that a proposed annexation meets the requirements of this  
20 subsection, a city may initiate the planning and zoning procedures set  
21 forth in chapter 65, title 67, Idaho Code, to establish the comprehen-  
22 sive planning policies, where necessary, and zoning classification of  
23 the lands to be annexed.

24 (b) Enclaves. The provisions of subsections (3) and (4) of this section  
25 shall not apply to the annexation of any residential enclaved lands of  
26 thirty (30) or fewer privately owned parcels that are surrounded on all  
27 sides by lands within a city.

28 (6) Ordinance. If all requirements provided in subsection (3), (5) (a),  
29 or (5) (b) of this section are satisfied and the city agrees to the annexa-  
30 tion, then the city council shall enact an annexation ordinance.

31 (7) Highways. In any annexation proceeding, all portions of highways  
32 lying wholly or partly in the subject area shall be included in the area an-  
33 nexed unless there is an express agreement otherwise between the city and the  
34 governing board of the highway agency providing road maintenance at the time  
35 of annexation. Provided, however, no city council may annex property if it  
36 will be connected to the city only by a shoestring connection or strip of land  
37 comprising the highway's right-of-way in order to establish contiguity.

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

42 (9) Airport. A city may annex land that is not contiguous to the city  
43 itself if such land is occupied by a municipally owned or operated airport  
44 or landing field. A city may not annex any land contiguous to the airport or  
45 landing field unless the land may otherwise be annexed pursuant to this sec-  
46 tion.

47 (10) Recreational area. Property owned by a nongovernmental entity  
48 that is used to provide outdoor recreational activities to the public and  
49 that has been designated as a planned unit development of fifty (50) acres or  
50 more and does not require or utilize any city services must have the express

1 written permission of the nongovernmental entity owner to be annexed by a  
2 city.

3 (11) Railroad right-of-way. A railroad right-of-way property may be  
4 annexed pursuant to this section only when property within the city adjoins  
5 or will adjoin both sides of the right-of-way. Provided, however, no city  
6 council may annex property if it will be connected to the city only by a shoe-  
7 string connection or strip of land comprising the railroad right-of-way.

8 (12) Agricultural or forest land. In addition to the requirements set  
9 forth in this section, the following land may not be annexed without the ex-  
10 press written permission of the landowner:

11 (a) Land, if five (5) acres or greater, actively devoted to agriculture  
12 as defined in section 63-604(1), Idaho Code, regardless of whether such  
13 land is surrounded or bounded on all sides by lands within the city; and

14 (b) Land, if five (5) acres or greater, actively devoted to forest land  
15 as defined in section 63-1701, Idaho Code, regardless of whether such  
16 land is surrounded or bounded on all sides by lands within the city.

17 (13) Judicial review. In the case of a city-initiated annexation, the  
18 decision of a city council to annex and zone land shall be subject to judi-  
19 cial review in accordance with the procedures provided in chapter 52, title  
20 67, Idaho Code, and pursuant to the standards set forth in section 67-5279,  
21 Idaho Code. Any such appeal shall be filed by an affected person in the ap-  
22 propriate district court no later than twenty-eight (28) days after the date  
23 of publication of the annexation ordinance and shall be heard by the district  
24 court at the earliest practicable time. All cases in which there may arise  
25 a question of the validity of any city-initiated annexation under this sec-  
26 tion shall be advanced as a matter of immediate public interest and concern  
27 and shall be heard by the district court at the earliest practicable time.

28 (14) This section applies to annexations occurring on and after July 1,  
29 2023. It does not invalidate or affect consent obtained or annexations un-  
30 dertaken lawfully according to the laws in effect at the time of such consent  
31 or annexations.

32 SECTION 3. An emergency existing therefor, which emergency is hereby  
33 declared to exist, this act shall be in full force and effect on and after  
34 July 1, 2023.