

IN THE SENATE

SENATE BILL NO. 1264

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 PROVIDE LEG-  
4 ISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE REQUIREMENTS FOR CITIES  
5 TO ANNEX LAND, TO PROVIDE FOR A WRITTEN ANNEXATION PLAN, TO PROVIDE  
6 EXCEPTIONS, TO PROVIDE FOR AN ANNEXATION ORDINANCE IN CERTAIN CIRCUM-  
7 STANCES, TO ESTABLISH PROVISIONS REGARDING THE ANNEXATION OF HIGHWAYS,  
8 FAIRGROUNDS, AIRPORTS, RECREATIONAL AREAS, RAILROAD RIGHTS-OF-WAY,  
9 AND AGRICULTURAL OR FOREST LAND, TO PROVIDE FOR JUDICIAL REVIEW, AND  
10 TO PROVIDE APPLICABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN  
11 EFFECTIVE DATE.  
12

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

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15 repealed.

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

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

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

29 (a) "Consent" means a written document executed by the landowner or  
30 the landowner's authorized agent explicitly agreeing to annexation.  
31 Written consent to annex lands must be recorded in the county recorder's  
32 office to be binding upon subsequent purchasers, heirs, or assigns of  
33 lands addressed in the consent.

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

37 (c) "Implied consent" means that valid consent to annex is implied for  
38 the area of all lands connected to a water or wastewater collection sys-  
39 tem owned and operated in its entirety by the city if the connection was  
40 requested in writing by the owner or the owner's authorized agent prior  
41 to July 1, 2024, or if the connection was completed before July 1, 2008.

1 (d) "Landowner" means a person owning real property in the area pro-  
2 posed for annexation.

3 (e) "Planning and zoning commission" means the entity performing plan-  
4 ning and zoning duties for the city, which may be the city itself, a  
5 planning commission, a zoning commission, or a planning and zoning com-  
6 mission.

7 (f) "Subject land" means an area proposed for annexation by a city pur-  
8 suant to this section.

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

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

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

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

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

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

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

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

26 (c) The city publishes notice of its intent to annex the subject land.  
27 In providing notice, the city shall comply with the notice and hearing  
28 procedures governing a zoning district boundary change as set forth in  
29 chapter 65, title 67, Idaho Code, unless otherwise provided in this sec-  
30 tion, on the question of whether the subject land should be annexed and,  
31 if annexed, the zoning designation to be applied to the subject land.  
32 The initial notice of public hearing concerning the question of annexa-  
33 tion and zoning shall be published in the official newspaper of the city  
34 and mailed by first class mail to every landowner of property included  
35 in the annexation proposal at least twenty-eight (28) days prior to the  
36 initial public hearing. All public hearing notices shall establish a  
37 time and procedure by which comments concerning the proposed annexation  
38 may be received in writing and heard;

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

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

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

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

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

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

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

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

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

19 (f) A statement of the public purposes that would benefit from annexa-  
20 tion.

21 (5) Exceptions.

22 (a) Annexation with consent. In the case of a prospective annexation  
23 where all landowners of the subject property have requested annexation  
24 or where consent has been given by the landowner or landowners of a con-  
25 tiguous parcel or parcels or where implied consent has been given, the  
26 provisions of subsections (3) and (4) of this section shall not apply.  
27 In such a case, the subject land may extend beyond the city area of im-  
28 pact if the land is contiguous to the city and the comprehensive plan in-  
29 cludes the area of annexation. Lands need not be contiguous to the city  
30 limits at the time a landowner consents to annexation for the property  
31 to be subject to a valid consent to annex, but no annexation of lands may  
32 occur, regardless of consent, until such land becomes contiguous to the  
33 city. Upon determining that a proposed annexation meets the require-  
34 ments of this subsection, a city may initiate the planning and zoning  
35 procedures set forth in chapter 65, title 67, Idaho Code, to establish  
36 the comprehensive planning policies, where necessary, and zoning clas-  
37 sification of the lands to be annexed.

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

42 (6) Ordinance. If all requirements provided in subsection (3) or (5)  
43 of this section are satisfied and the city agrees to the annexation, then the  
44 city council shall enact an annexation ordinance.

45 (7) Highways. In any annexation proceeding, all portions of highways  
46 lying wholly or partly in the subject area shall be included in the area an-  
47 nexed unless there is an express agreement otherwise between the city and  
48 the governing board of the highway agency providing road maintenance at the  
49 time of annexation. Provided, however, no city council may annex property  
50 if the property will be connected to the city only by a shoestring connection

1 or strip of land comprising the highway's right-of-way in order to establish  
2 contiguity.

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

7 (9) Airports. A city may annex land that is not contiguous to the city  
8 itself if such land is occupied by a municipally owned or operated airport  
9 or landing field. A city may not annex any land contiguous to the airport or  
10 landing field unless the land may otherwise be annexed pursuant to this sec-  
11 tion.

12 (10) Recreational areas. Property owned by a nongovernmental entity  
13 that is used to provide outdoor recreational activities to the public and  
14 that has been designated as a planned unit development of fifty (50) acres or  
15 more and does not require or utilize any city services must have the express  
16 written permission of the nongovernmental entity owner to be annexed by a  
17 city.

18 (11) Railroad rights-of-way. A railroad right-of-way property may be  
19 annexed pursuant to this section only when property within the city adjoins  
20 or will adjoin both sides of the right-of-way. Provided, however, no city  
21 council may annex property if the property will be connected to the city only  
22 by a shoestring connection or strip of land comprising the railroad right-  
23 of-way.

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

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

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

33 (13) Judicial review. In the case of a city-initiated annexation, the  
34 decision of a city council to annex and zone land shall be subject to judicial  
35 review in accordance with the procedures provided in chapter 52, title 67,  
36 Idaho Code, and pursuant to the standards set forth in section 67-5279, Idaho  
37 Code. An appeal shall be filed by an affected person in the appropriate dis-  
38 trict court no later than twenty-eight (28) days after the date of publica-  
39 tion of the annexation ordinance and shall be heard by the district court at  
40 the earliest practicable time. All cases in which there may arise a question  
41 of the validity of any city-initiated annexation under this section shall be  
42 advanced as a matter of immediate public interest and concern and shall be  
43 heard by the district court at the earliest practicable time.

44 (14) This section applies to annexations occurring on and after July 1,  
45 2024. It does not invalidate or affect consent, including implied consent,  
46 obtained or annexations undertaken lawfully according to the laws in effect  
47 at the time of such consent or annexations.

48 SECTION 3. An emergency existing therefor, which emergency is hereby  
49 declared to exist, this act shall be in full force and effect on and after  
50 July 1, 2024.