

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 596

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

RELATING TO ANNEXATION BY CITIES; AMENDING SECTION 50-222, IDAHO CODE, TO  
REVISE PROVISIONS REGARDING ANNEXATION BY CITIES; AND DECLARING AN  
EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 50-222, Idaho Code, be, and the same is hereby  
amended to read as follows:

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

(2) Definitions. For purposes of this section:

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

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

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

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

(e) "Planning and zoning commission" means the entity performing plan-  
ning and zoning duties for the city, which may be the city council it-  
self, a planning commission, a zoning commission, or a planning and zon-  
ing commission.

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

(3) Requirements. Except as provided in subsection ~~(5)~~ (6) of this sec-  
tion, no city of this state shall annex land unless and until the following  
requirements are met:

1 (a) The subject land is contiguous to or surrounded by the city, except  
2 as provided in subsections ~~(7), (9), or (11)~~ (8), (10), or (12) of this  
3 section;

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

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

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

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

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

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

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

29 (d) The city council adopts a written annexation plan;

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

40 (f) Landowners representing sixty percent (60%) of the parcels and at  
41 least fifty percent (50%) of the area proposed for annexation give vol-  
42 untary consent as defined in subsection (2) of this section and record  
43 such consent with the county recorder's office for the county in which  
44 the property is located.

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

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

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

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

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

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

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

10 (5) Landowners whose property is annexed by a city but who do not give  
11 voluntary consent for such annexation pursuant to the provisions of subsec-  
12 tion (3) (f) of this section shall not be required to use wastewater and wa-  
13 ter tax-supported municipal services and shall be allowed to maintain or re-  
14 place existing wastewater and water systems that are compliant with applica-  
15 ble rules and regulations. Any other costs incurred by such landowners that  
16 are directly related to the city's annexation of the landowners' property  
17 shall be paid by the city.

18 ~~(5)~~ (6) Exceptions.

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

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

40 ~~(6)~~ (7) Ordinance. If all requirements provided in subsection (3) or  
41 ~~(5)~~ (6) of this section are satisfied and the city agrees to the annexation,  
42 then the city council shall enact an annexation ordinance.

43 ~~(7)~~ (8) Highways. In any annexation proceeding, all portions of high-  
44 ways lying wholly or partly in the subject area shall be included in the area  
45 annexed unless there is an express agreement otherwise between the city and  
46 the governing board of the highway agency providing road maintenance at the  
47 time of annexation. Provided, however, no city council may annex property  
48 if the property will be connected to the city only by a shoestring connection  
49 or strip of land comprising the highway's right-of-way in order to establish  
50 contiguity.

1       ~~(8)~~ (9) Fairgrounds. Property that is used as a fairground pursuant to  
2 the provisions of chapter 8, title 31, Idaho Code, or chapter 2, title 22,  
3 Idaho Code, shall not be annexed unless the annexation is approved by a ma-  
4 jority of the board of county commissioners of the county in which the prop-  
5 erty lies.

6       ~~(9)~~ (10) Airports. A city may annex land that is not contiguous to the  
7 city itself if such land is occupied by a municipally owned or operated air-  
8 port or landing field. A city may not annex any land contiguous to the air-  
9 port or landing field unless the land may otherwise be annexed pursuant to  
10 this section.

11       ~~(10)~~ (11) Recreational areas. Property owned by a nongovernmental en-  
12 tity that is used to provide outdoor recreational activities to the public  
13 and that has been designated as a planned unit development of fifty (50)  
14 acres or more and does not require or utilize any city services must have the  
15 express written permission of the nongovernmental entity owner to be annexed  
16 by a city.

17       ~~(11)~~ (12) Railroad rights-of-way. A railroad right-of-way property  
18 may be annexed pursuant to this section only when property within the city  
19 adjoins or will adjoin both sides of the right-of-way. Provided, however,  
20 no city council may annex property if the property will be connected to the  
21 city only by a shoestring connection or strip of land comprising the railroad  
22 right-of-way.

23       ~~(12)~~ (13) Agricultural or forest lands. In addition to the requirements  
24 set forth in this section, the following lands may not be annexed without the  
25 express written permission of the landowner:

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

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

32       ~~(13)~~ (14) Judicial review. In the case of a city-initiated annexation,  
33 the decision of a city council to annex and zone land shall be subject to  
34 judicial review in accordance with the procedures provided in chapter 52,  
35 title 67, Idaho Code, and pursuant to the standards set forth in section  
36 67-5279, Idaho Code. An appeal shall be filed by an affected person in the  
37 appropriate district court no later than twenty-eight (28) days after the  
38 date of publication of the annexation ordinance and shall be heard by the  
39 district court at the earliest practicable time. All cases in which there  
40 may arise a question of the validity of any city-initiated annexation under  
41 this section shall be advanced as a matter of immediate public interest and  
42 concern and shall be heard by the district court at the earliest practicable  
43 time.

44       ~~(14)~~ (15) This section applies to annexations occurring on and after  
45 July 1, 2024. It does not invalidate or affect consent, including implied  
46 consent, obtained or annexations undertaken lawfully according to the laws  
47 in effect at the time of such consent or annexations.

48       SECTION 2. 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, 2026.