

MEMORANDUM

TO: BENCHLAND WATER DISTRICT
FROM: SMITH HARTVIGSEN, PLLC
RE: ANNEXATION PROCEDURES FOR BENCHLAND WATER DISTRICT
(ABBREVIATED)**
(UTAH CODE §§ 17B-1-401 TO -418)

****CAUTIONARY NOTES:**

These abbreviated procedures apply only if:

- *All of the property to be annexed is owned by one person/entity that is petitioning for annexation;*
- *All of the property to be annexed is located within the boundaries of one municipality;*
AND
- *None of the property to be annexed is located in unincorporated county area.*

If the proposed annexation falls outside of these parameters, Smith Hartvigsen has another memo on file that contains the additional procedures.

Initiation of Annexation Process (17B-1-403 and -404)

- The landowner files a petition with district board containing:
 - Description the proposed area
 - Map of the boundaries of the proposed area
 - Typed or printed name and current residence address of owner
 - Address of the property to be annexed
 - Designation of owner as sponsor and contact sponsor
 - Mailing address and phone number for the sponsor
 - Signature of the landowner
- The area to be annexed may consist of one or more noncontiguous parcels
- The area to be annexed need not be adjacent to the boundaries of the district

Certification of Petition (17B-1-405)

- Within 30 days of the filing of the petition (or such other time period set forth in a written agreement between district and owner), the district board shall, with assistance of the county, as needed, determine if the petition meets statutory requirements
- If petition complies, the district board:
- Certifies the petition
 - Mails or delivers written notice of the certification to the contact sponsor
- If petition fails to comply, the district board:
- Rejects the petition
 - Mails or delivers written notice of the rejection and the reasons for the rejection to the contact sponsor
- A non-compliant petition may be amended to correct the deficiencies and re-filed
 - An amended petition is processed by the district board in the same manner as the original petition

Notice of Certification of Petition (17B-1-406)

- Within 10 days after certifying a petition, the district board mails or delivers written notice of the proposed annexation, with a copy of the certification and a copy of the petition, to the legislative body of the municipality
- Notice is not required if the municipality does not provide water service or has waived the notice requirement as to the district or as to water service

Notice of Intent to Consider Providing Service (17B-1-407 and -408)

If the municipality intends to consider providing water service to the proposed area, the municipality mails or delivers notice of intent to the district board within 30 days of receiving the notice of certification of petition

- If notice of intent is not received within 30 days, the municipality is deemed to have declined to provide water service to the proposed area
- If notice of intent is received, the district's annexation proceeding is suspended until the municipality adopts a resolution declining to provide water service to the proposed area or is otherwise deemed to have declined to provide water service to the proposed area
- If the municipality provides notice of intent, the municipality must hold public hearing(s) to consider the issue of providing water service

Notice of Proposed Annexation (78B-1-413)

The district board provides notice of the proposed annexation within 30 days after certification of the petition

- Post written notice at the district's office
- Post written notice in one or more other locations within the proposed area¹
- Provide written notice in at least one newspaper of general circulation in area
- Provide written notice on the Utah Public Notice Website

Notices must contain:

- Name of the district
- Service provided by the district
- Brief explanation of the proposed annexation
- Description or map of the proposed area
- District phone number where additional information may be obtained
- Explanation of the right of a property owner or registered voter to request a public hearing (within 20 days of the notice)
- Even though a public hearing is not required, the district board has the discretion to hold a public hearing, provided that proper notice is given (see 78B-1-413(2)(b) for notice requirements)

¹ Number of locations should be "reasonable" based on size of proposed area, number of parcels in proposed area, population in the proposed area, etc.

Approval of Annexation (17B-1-414)

- District board adopts a resolution approving the annexation within 30 days after expiration of the time for submitting a request for public hearing
- Within 30 days of adopting the resolution approving the annexation, the District board files with the lieutenant governor:
 - A copy of a notice of impending boundary action (67-1a-6.5)
 - Directed to the lieutenant governor
 - Describe the type of boundary action (i.e., annexation)
 - Contain a statement, signed and verified by the district, that all requirements applicable to the annexation have been met
 - A copy of an approved final local entity plat
 - Plat must be prepared by a professional land surveyor and approved by the county surveyor (see 17-23-20(4) for plat requirements)
- Within 10 days, the lieutenant governor issues a certificate of annexation (67-1a-6.5)
- The annexation is effective upon the lieutenant governor's issuance of a certificate of annexation
- When the district receives the certificate of annexation, it must record with the county recorder:
 - The original notice of impending boundary action
 - The original certificate of annexation
 - The original approved final local entity plat
- Until the documents are recorded, the district may not levy or collect property taxes or assessments on property within the annexed area, or charge or collect a fee for service provided to property within the annexed area

Denial of the Annexation (17B-1-409)

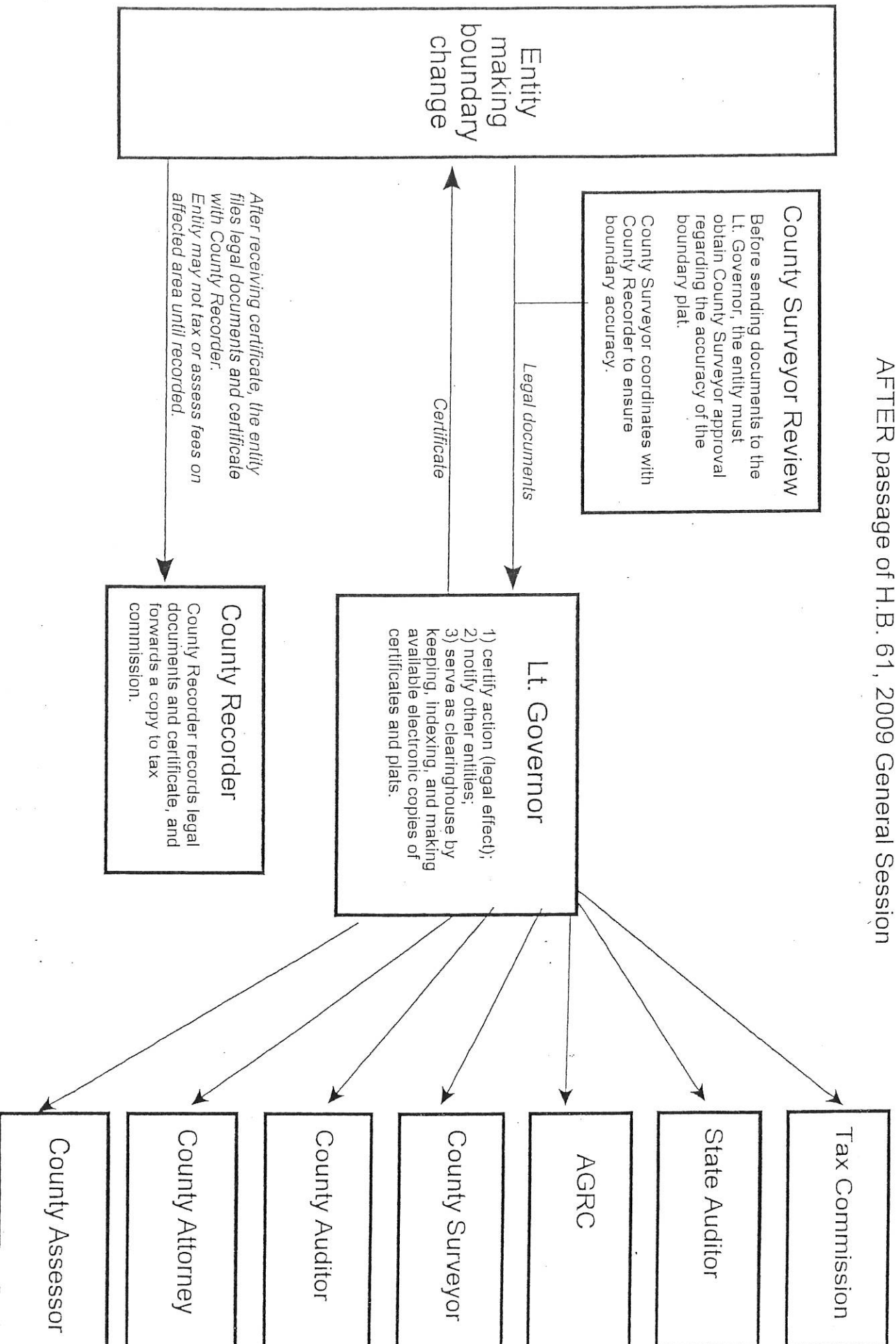
The district board may deny the annexation by resolution if (i) it is not feasible for the district to provide service to the proposed area, or (ii) annexing the proposed area would be inequitable to the residents already within the district

- In a resolution denying annexation, the district board must set forth its reasons for denying the annexation
- Denial of the annexation may occur after the time period to request a hearing has passed

Flow of Information for Reporting Government Boundary Changes

AFTER passage of H.B. 61, 2009 General Session

Revised: 01/28/2009



Petition for Annexation into the Benchland Water District

The undersigned petitioners state and represent that:

1. Petitioners are:

2. Petitioners petition the Board of Benchland Water District for annexation of the Proposed Annexation Area (described below) into Benchland Water District , pursuant to U. C. A. § 17B-1-403 and 404.

3. The area and boundaries proposed to be annexed (the "Proposed Annexation Area") into Benchland Water District are described in Exhibit A attached hereto and incorporated herein by reference.

4. Annexation of the Proposed Annexation Area into Benchland Water is required by the public health, convenience and necessity because: _____

WHEREFORE, Petitioners request that:

1. The Board of Benchland Water District (the "BOARD") adopt a resolution declaring that the public health, convenience and necessity require annexation of the Proposed Annexation Area into Benchland Water District.

2. The Board give proper notice of its intentions to annex the proposed Annexation area in accordance with U. C. A. § 17B-1-413.

3. The Board otherwise comply with all requirements of U. C. A. 17B-1-405 and 17B-1-406.

