

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 489

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.
5

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8 repealed.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 or surrounded by the city, except as
23 provided in subsection (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 annexation is valid only if evidenced by a
28 written instrument executed by the landowner or the landowner's authorized
29 agent.

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

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

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) Utilities or airport. Subject to the provisions of this section, a
43 city may annex land that is not adjacent to the city itself if such land:

44 (a) Receives water, sewer, or electric services from the city; or

45 (b) Is occupied by a municipally owned or operated airport or landing
46 field. A city may not annex any land adjacent to the airport or landing
47 field unless the land may otherwise be annexed pursuant to this section.

48 (10) Recreational area. Property owned by a nongovernmental entity and
49 used to provide outdoor recreational activities to the public that has been
50 designated as a planned unit development of fifty (50) acres or more and does

1 not require or use any city services may not be annexed without the consent of
2 the nongovernmental entity owner.

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.

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

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

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

15 (13) Reduced taxes. A person whose land is annexed pursuant to the pro-
16 visions of this section shall not be required to pay taxes for city services
17 that are unavailable in the annexed land, and such person's taxes shall be
18 reduced accordingly.

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