

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0435.01 Bob Lackner

HOUSE BILL 10-1259

HOUSE SPONSORSHIP

Nikkel,

SENATE SPONSORSHIP

Lundberg,

House Committees

Local Government

Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AMENDMENTS TO THE "MUNICIPAL ANNEXATION ACT
102 OF 1965" IN ORDER TO CONFORM THE ACT TO PROVISIONS OF
103 THE STATE CONSTITUTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The state constitution prohibits an unincorporated area from being annexed to a municipality unless one of the following constitutional annexation requirements first has been met:

! The question of annexation has been submitted to the vote

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of the landowners and the registered electors in the area proposed to be annexed, and the majority of the persons voting on the question have voted for the annexation;

- ! The annexing municipality has received a petition for the annexation of the area signed by persons comprising more than 50% of the landowners in the area and owning more than 50% of the area, excluding public streets and alleys and any land owned by the annexing municipality; or
- ! The area is entirely surrounded by or is solely owned by the annexing municipality.

The bill amends the "Municipal Annexation Act of 1965" (act) to conform its provisions to the constitutional annexation requirements. In particular:

- ! **Section 1** of the bill amends the legislative declaration in the act to add as a purpose of the act the implementation of the constitutional annexation requirements.
- ! **Section 2** of the bill conforms existing definitions in the act to the provisions of the bill.
- ! **Section 3** of the bill prohibits an unincorporated area from being annexed to a municipality unless one of the constitutional annexation requirements first has been met. Section 3 also specifies that an area is eligible for annexation if the constitutional annexation requirements have been satisfied in addition to satisfying existing statutory requirements.
- ! **Sections 4 and 5** remove obsolete provisions in the act.
- ! **Section 6** of the bill specifies that persons comprising more than 50% of the landowners in an area and owning more than 50% of the area may petition the governing body of any municipality for the annexation of the territory. Section 6 also clarifies the requirements affecting a petition for annexation to specify that a petition must contain an allegation that the signers of the petition comprise more than 50% of the landowners in the area and own more than 50% of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality.
- ! **Section 7** of the bill specifies that the required hearing to establish eligibility for annexation need not be held if the municipality has determined conclusively that the constitutional annexation requirements, in addition to existing statutory requirements, have not been met.
- ! **Section 8** of the bill specifies that a finding by the governing body of the annexing municipality that the area proposed for annexation does not comply with the

applicable provisions of the constitutional annexation requirements, in addition to existing statutory requirements, shall terminate the annexation proceeding.

- ! **Section 9** makes conforming amendments to the act.
- ! **Section 10** of the bill clarifies that annexation elections are to be decided by a majority of the landowners and registered electors in the relevant area and not the qualified electors or qualified electors and landowners as under existing law. Other sections of the bill contain changes conforming to this new requirement.
- ! **Section 11** of the bill addresses conflicting annexation claims of 2 or more municipalities. In particular, upon the filing of a petition by the second municipality indicating its intent to annex the disputed area, the bill permits the first municipality and the petitioners for the annexation being considered by the first municipality to file a responsive pleading. If either or both of the parties files a responsive pleading, the district court is required to determine whether the annexation being processed by the second municipality complies with the constitutional annexation requirements and the applicable provisions of the act. In the absence of the filing of a responsive pleading or upon a determination that the annexation being processed by the second municipality complies with the constitutional annexation requirements and the applicable provisions of the act, all further proceedings for the annexation of the area claimed by both municipalities are to be held in abeyance pending an election of the landowners and the registered electors within the area for the purpose of determining to which municipality the electors prefer to annex.
- ! **Section 12** of the bill specifies that review proceedings instituted under the act shall not extend further than determining whether the annexation complies with the constitutional annexation requirements in addition to whether the governing body has exceeded its jurisdiction or abused its discretion under the provisions of the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 31-12-102, Colorado Revised Statutes, is amended

3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **31-12-102. Legislative declaration.** (2) THE GENERAL

1 ASSEMBLY FURTHER DECLARES THAT:

2 (a) SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION WAS
3 ADDED TO THE STATE CONSTITUTION AS A VOTER-APPROVED BALLOT
4 MEASURE IN 1980;

5 (b) SINCE ITS ADOPTION, SECTION 30 OF ARTICLE II OF THE STATE
6 CONSTITUTION HAS BEEN IN LAWFUL FORCE AND EFFECT. AS PART OF THE
7 STATE CONSTITUTION, ALL ANNEXATIONS SINCE ITS ENACTMENT HAVE
8 BEEN OR SHOULD HAVE BEEN UNDERTAKEN SUBJECT TO ITS TERMS.

9 (c) BY ENACTING HOUSE BILL 10-____, ENACTED IN 2010, WHICH
10 AMENDS VARIOUS PROVISIONS OF THIS PART 1, THE GENERAL ASSEMBLY
11 DOES NOT INTEND TO CHANGE THE LAW GOVERNING ANNEXATIONS IN THE
12 STATE BUT RATHER TO BETTER HARMONIZE THE PROVISIONS OF THIS PART
13 1 WITH THOSE OF SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION
14 IN THE INTERESTS OF PROMOTING THE FULL AND EFFECTIVE
15 IMPLEMENTATION OF SECTION 30 OF ARTICLE II OF THE STATE
16 CONSTITUTION IN CONNECTION WITH ALL ANNEXATIONS, INCLUDING
17 THOSE PENDING AT THE TIME OF THE ENACTMENT OF HOUSE BILL 10-____.
18 AS THE PROVISIONS OF SECTION 30 OF ARTICLE II OF THE STATE
19 CONSTITUTION HAVE BEEN IN EFFECT SINCE 1980, IT IS THE INTENT OF THE
20 GENERAL ASSEMBLY THAT HOUSE BILL 10-____ MERELY CLARIFY
21 EXISTING LEGAL ARRANGEMENTS.

22 **SECTION 2.** 31-12-103 (7) and (9), Colorado Revised Statutes,
23 are amended, and the said 31-12-103 is further amended BY THE
24 ADDITION OF A NEW SUBSECTION, to read:

25 **31-12-103. Definitions.** As used in this part 1, unless the context
26 otherwise requires:

27 (7) ~~"Nonresident landowner" means any person owning property~~

1 in the area proposed to be annexed who is not a qualified elector and who
2 is at least eighteen years of age as attested to by sworn affidavit.

3 (9) "~~Qualified elector~~" means a registered elector, as defined in
4 part 1 of article 1 of this title, who is a resident landowner of the area
5 proposed to be annexed.

6 (10.5) "REGISTERED ELECTOR" SHALL HAVE THE SAME MEANING
7 AS SET FORTH IN SECTION 1-1-104 (35), C.R.S.

8 **SECTION 3.** The introductory portion to 31-12-104 (1), Colorado
9 Revised Statutes, is amended to read:

10 **31-12-104. Eligibility for annexation.** (1) NO UNINCORPORATED
11 AREA MAY BE ANNEXED TO A MUNICIPALITY UNLESS ONE OF THE
12 CONDITIONS SET FORTH IN SECTION 30 (1) OF ARTICLE II OF THE STATE
13 CONSTITUTION FIRST HAS BEEN MET. An area is eligible for annexation if
14 THE PROVISIONS OF SECTION 30 OF ARTICLE II OF THE STATE
15 CONSTITUTION HAVE BEEN COMPLIED WITH AND the governing body, at a
16 hearing as provided in section 31-12-109, finds and determines:

17 **SECTION 4.** 31-12-105 (1) (c), Colorado Revised Statutes, is
18 amended to read:

19 **31-12-105. Limitations.** (1) Notwithstanding any provisions of
20 this part 1 to the contrary, the following limitations shall apply to all
21 annexations:

22 (c) No annexation pursuant to section 31-12-106 and no
23 annexation petition or petition for an annexation election pursuant to
24 section 31-12-107 shall be valid when annexation proceedings have been
25 commenced for the annexation of part or all of such territory to another
26 municipality, except in accordance with the provisions of section
27 31-12-114. For the purpose of this section, proceedings are commenced

1 when the petition is filed with the clerk of the annexing municipality ~~or~~
2 ~~when the resolution of intent is adopted by the governing body of the~~
3 ~~annexing municipality~~ if action on the acceptance of such petition ~~or on~~
4 ~~the resolution of intent~~ by the setting of the hearing in accordance with
5 section 31-12-108 is taken within ninety days after the said filings if an
6 annexation procedure initiated by petition for annexation is then
7 completed within the one hundred fifty days next following the effective
8 date of the resolution accepting the petition and setting the hearing date
9 and if an annexation procedure initiated ~~by resolution of intent or by~~
10 petition for an annexation election is prosecuted without unreasonable
11 delay after the effective date of the resolution setting the hearing date.

12 **SECTION 5.** 31-12-106 (1) and (3), Colorado Revised Statutes,
13 are amended to read:

14 **31-12-106. Annexation of enclaves, partly surrounded land,**
15 **and municipally owned land. (1) Annexation of enclaves.** When any
16 unincorporated area is entirely contained within the boundaries of a
17 municipality, the governing body may by ordinance annex such territory
18 to the municipality IN ACCORDANCE WITH SECTION 30 (1) (c) OF ARTICLE
19 II OF THE STATE CONSTITUTION, BUT without complying with section
20 31-12-104, 31-12-105, 31-12-108, or 31-12-109, if said area has been so
21 surrounded for a period of not less than three years; except that notice of
22 the proposed annexation ordinance shall be given by publication as
23 provided by section 31-12-108 (2) for notices of annexation petitions, ~~and~~
24 ~~resolutions initiating annexation proceedings~~, but no public hearing on the
25 proposed annexation ordinance shall be required, and the first publication
26 of notice shall be at least thirty days prior to the adoption of the
27 ordinance.

1 (3) **Annexation of unincorporated municipally owned land.**
2 When the municipality is the sole owner of the area that it desires to
3 annex, which area is eligible for annexation ~~as set out~~ in ACCORDANCE
4 WITH SECTION 30 (1) (c) OF ARTICLE II OF THE STATE CONSTITUTION AND
5 sections 31-12-104 (1) (a) and 31-12-105, the governing body may by
6 ordinance annex said area to the municipality without notice and hearing
7 as provided in sections 31-12-108 and 31-12-109. The annexing
8 ordinance shall state that the area proposed to be annexed is owned by the
9 annexing municipality and is not solely a public street or right-of-way.

10 **SECTION 6.** The introductory portion to 31-12-107 (1),
11 31-12-107 (1) (a), (1) (c) (III), and (1) (g), the introductory portion to
12 31-12-107 (2), and 31-12-107 (2) (a), (2) (c) (II), and (2) (e), Colorado
13 Revised Statutes, are amended to read:

14 **31-12-107. Petitions for annexation and for annexation**
15 **elections.** (1) Petition for annexation IN ACCORDANCE WITH SECTION 30
16 (1) (b) OF ARTICLE II OF THE STATE CONSTITUTION:

17 (a) PERSONS COMPRISING MORE THAN FIFTY PERCENT OF the
18 landowners ~~of~~ IN THE AREA AND OWNING more than fifty percent of the
19 area, excluding public streets and alleys AND ANY LAND OWNED BY THE
20 ANNEXING MUNICIPALITY, meeting the requirements of sections
21 31-12-104 and 31-12-105 may petition the governing body of any
22 municipality for the annexation of such territory.

23 (c) The petition shall contain the following:

24 (III) An allegation that the signers of the petition comprise MORE
25 THAN FIFTY PERCENT OF the landowners ~~of~~ IN THE AREA AND OWN more
26 than fifty percent of the ~~territory included in the~~ area proposed to be
27 annexed, ~~exclusive of~~ EXCLUDING PUBLIC streets and alleys AND ANY

1 LAND OWNED BY THE ANNEXING MUNICIPALITY;

2 (g) If the petition is found to be in substantial compliance with
3 this subsection (1), the procedure outlined in sections 31-12-108 to
4 31-12-110 shall then be followed. If it is not in substantial compliance,
5 no further action shall be taken. ~~except that the governing body shall~~
6 ~~make such determination by a resolution and except that when the petition~~
7 ~~is signed by the owners of one hundred percent of the area proposed to be~~
8 ~~annexed, exclusive of streets and alleys, the governing body may by~~
9 ~~ordinance annex such area to the municipality without election, as~~
10 ~~provided in section 31-12-111, unless additional terms and conditions are~~
11 ~~to be imposed. The ordinance annexing such area shall include a~~
12 ~~statement that the owners of one hundred percent of the area have~~
13 ~~petitioned for such annexation.~~

14 (2) Petition for annexation election IN ACCORDANCE WITH SECTION
15 30 (1) (a) OF ARTICLE II OF THE STATE CONSTITUTION:

16 (a) The ~~qualified~~ REGISTERED electors may petition the governing
17 body of any municipality to commence proceedings for the holding of an
18 annexation election in the area proposed to be annexed. This petition
19 shall meet the standards described in paragraphs (c) and (d) of this
20 subsection (2) and either:

21 (I) Shall be signed by at least seventy-five ~~qualified~~ REGISTERED
22 electors or ten percent of said electors, whichever is less, if such area is
23 located in a county of more than twenty-five thousand inhabitants; or

24 (II) Shall be signed by at least forty ~~qualified~~ REGISTERED electors
25 or ten percent of said electors, whichever is less, if such area is located
26 in a county of twenty-five thousand inhabitants or less.

27 (c) The petition for annexation election shall comply with the

1 provisions of paragraph (c) of subsection (1) of this section; except that:

2 (II) The petition shall request the annexing municipality to
3 commence proceedings for the holding of an annexation election IN
4 ACCORDANCE WITH SECTION 30 (1) (a) OF ARTICLE II OF THE STATE
5 CONSTITUTION.

6 (e) If the petition is found to be in substantial compliance with
7 this subsection (2), the procedure outlined in sections 31-12-108 to
8 31-12-110 shall then be followed, SUBJECT THEREAFTER TO AN
9 ANNEXATION ELECTION TO BE HELD IN ACCORDANCE WITH SECTION
10 31-12-112. If the petition for an annexation election is not found to be
11 in substantial compliance, no further action shall be taken; except that the
12 governing body shall make such determination by resolution. ~~If the
13 petition for an annexation election is found to be in substantial
14 compliance with this section, the governing body may pass a resolution
15 of intent to annex the land proposed for annexation, subject to the
16 procedure outlined in sections 31-12-108 to 31-12-110 and subject
17 thereafter to an annexation election to be held in accordance with section
18 31-12-112.~~

19 **SECTION 7.** 31-12-108 (1) and (2), Colorado Revised Statutes,
20 are amended to read:

21 **31-12-108. Setting hearing date - notice given.** (1) As a part of
22 ~~the resolution initiating annexation proceedings by the municipality or of~~
23 a resolution finding substantial compliance of an annexation petition or
24 of a petition for an annexation election, the governing body of the
25 annexing municipality shall establish a date, time, and place that the
26 governing body will hold a hearing to determine if the proposed
27 annexation complies with SECTION 30 OF ARTICLE II OF THE STATE

1 CONSTITUTION AND sections 31-12-104 and 31-12-105 or such parts
2 PROVISIONS thereof as may be required to establish eligibility under the
3 terms of this part 1. The hearing shall be held not less than thirty days nor
4 more than sixty days after the effective date of the resolution setting the
5 hearing. This hearing need not be held if the municipality has determined
6 conclusively that the requirements of SECTION 30 OF ARTICLE II OF THE
7 STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 have not
8 been met.

9 (2) The clerk shall give notice as follows: A copy of the resolution
10 or the petition as filed (exclusive of the signatures) together with a notice
11 that, on the given date and at the given time and place set by the
12 governing body, the governing body shall hold a hearing upon said
13 resolution of the annexing municipality or upon the petition for the
14 purpose of determining and finding whether the area proposed to be
15 annexed meets the applicable requirements of SECTION 30 OF ARTICLE II
16 OF THE STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 and
17 is considered eligible for annexation. Said notice shall be published once
18 a week for four successive weeks in some newspaper of general
19 circulation in the area proposed to be annexed. The first publication of
20 such notice shall be at least thirty days prior to the date of the hearing.
21 The proof of publication of the notice and resolution or petition, or the
22 summary thereof, shall be returned when the publication is completed,
23 ~~and~~, the certificate of the owner, editor, or manager of the newspaper in
24 which said notice is published shall be proof thereof, and a hearing shall
25 then be held as provided in said notice. A copy of the published notice,
26 together with a copy of the resolution and petition as filed, shall also be
27 sent by registered mail by the clerk to the board of county commissioners

1 and to the county attorney of the county wherein the territory is located
2 and to any special district or school district having territory within the
3 area to be annexed at least twenty-five days prior to the date fixed for
4 such hearing. The notice required to be sent to the special district or
5 school district by this subsection (2) shall not confer any right of review
6 in addition to those rights provided for in section 31-12-116.

7 **SECTION 8.** 31-12-110 (1) and (3), Colorado Revised Statutes,
8 are amended to read:

9 **31-12-110. Findings.** (1) Upon the completion of the hearing,
10 the governing body of the annexing municipality, by resolution, shall set
11 forth its findings of fact and its conclusion based thereon with reference
12 to the following matters:

13 (a) Whether or not the requirements of the applicable ~~parts~~
14 PROVISIONS of SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION
15 AND sections 31-12-104 and 31-12-105 have been met;

16 (b) Whether or not an election is required under SECTION 30(1)(a)
17 OF ARTICLE II OF THE STATE CONSTITUTION AND section 31-12-107 (2).

18 (3) A finding that the area proposed for annexation does not
19 comply with the applicable provisions of SECTION 30 OF ARTICLE II OF
20 THE STATE CONSTITUTION OR sections 31-12-104 and 31-12-105 shall
21 terminate the annexation proceeding.

22 **SECTION 9.** 31-12-111, Colorado Revised Statutes, is amended
23 to read:

24 **31-12-111. Annexation without election.** If the resolution of the
25 governing body adopted pursuant to section 31-12-110 determines that
26 the applicable ~~parts~~ PROVISIONS of SECTION 30 OF ARTICLE II OF THE
27 STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 have been

1 met, and further determines that an election is not required under section
2 31-12-107 (2), and does not determine that additional terms and
3 conditions are to be imposed, the governing body may thereupon annex
4 the area proposed to be annexed by ordinance.

5 **SECTION 10.** 31-12-112 (1), (2), (5), and (9), Colorado Revised
6 Statutes, are amended to read:

7 **31-12-112. Election - annexation pursuant to election.** (1) If
8 the governing body determines that an annexation election is required
9 under the provisions of SECTION 30 (1) (a) OF THE STATE CONSTITUTION
10 AND section 31-12-107 (2) or that additional terms and conditions should
11 be imposed upon the area proposed to be annexed, an election shall be
12 called, as provided in this section, to determine whether a majority of the
13 ~~qualified~~ LANDOWNERS AND THE REGISTERED electors IN THE AREA
14 PROPOSED TO BE ANNEXED approve such annexation, with such terms and
15 conditions, if any, as may attach thereto.

16 (2) Any landowner owning land in the area proposed to be
17 annexed may vote, irrespective of whether he OR SHE is a ~~qualified~~
18 REGISTERED elector. Any corporate landowner may by resolution
19 designate one of its officers to cast its vote; except that nothing in this
20 part 1 shall invalidate any memorandum of agreement or escrow
21 arrangement voluntarily made by and between the annexing municipality
22 and one or more landowners within the area proposed to be annexed nor
23 require an election for the approval of any terms and conditions to be
24 accomplished or assured in this manner.

25 (5) Such commissioners shall forthwith call an election of all the
26 ~~qualified electors or qualified electors and~~ landowners AND THE
27 REGISTERED ELECTORS IN THE AREA PROPOSED TO BE ANNEXED, to be held

1 at some convenient place within the area proposed to be annexed. The
2 commissioners shall establish such polling places within the area
3 proposed to be annexed, or immediately adjacent thereto if such area is
4 vacant and unoccupied, as in their judgment are necessary to afford all
5 ~~qualified electors, or qualified electors and~~ OF THE landowners AND THE
6 REGISTERED ELECTORS the opportunity to cast their votes. If more than
7 one polling place is found to be necessary, the court may appoint three
8 additional persons to act as judges or clerks for each additional polling
9 place. Such additional judges and clerks shall meet the same
10 requirements as the original appointees.

11 (9) If a majority of the votes cast at such election are against
12 annexation or the vote is tied, the court shall order that all annexation
13 proceedings to date are void and of no effect and that the governing body
14 shall proceed no further with the instant annexation proceedings. If a
15 majority of the votes cast at the election are for annexation, the court shall
16 order, adjudge, and decree that such area may be annexed to the
17 municipality upon the terms and conditions, if any, set forth by the
18 governing body, and the municipality, by ordinance, may thereafter annex
19 said area and impose the terms and conditions, if any, as approved by the
20 ~~qualified electors or~~ landowners AND THE REGISTERED ELECTORS.

21 **SECTION 11.** 31-12-114 (1), (2), (3), (4), (5) (b), (7), (8), and
22 (10), Colorado Revised Statutes, are amended to read:

23 **31-12-114. Conflicting annexation claims of two or more**
24 **municipalities.** (1) At any time during a period of notice given by a
25 municipality pursuant to section 31-12-108, any other municipality may,
26 ~~adopt a resolution of intent pursuant to section 31-12-106 or~~ SUBJECT TO
27 COMPLIANCE WITH SECTION 30 OF ARTICLE II OF THE STATE

1 CONSTITUTION, receive a petition for annexation or a petition for an
2 annexation election pursuant to section 31-12-107 with the area partly or
3 wholly overlapping the area proposed for annexation by the first
4 municipality. If this occurs, the respective rights of the several
5 municipalities shall be determined in accordance with an election as
6 provided in this section.

7 (2) UPON THE FILING OF A PETITION BY THE SECOND MUNICIPALITY
8 PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE FIRST MUNICIPALITY
9 AND THE PETITIONERS FOR THE ANNEXATION BEING CONSIDERED BY THE
10 FIRST MUNICIPALITY MAY FILE A RESPONSIVE PLEADING WITHIN THE TIME
11 ALLOWED BY THE COLORADO RULES OF CIVIL PROCEDURE. IF EITHER OR
12 BOTH OF SUCH PARTIES FILES A RESPONSIVE PLEADING, THE DISTRICT
13 COURT SHALL DETERMINE WHETHER THE ANNEXATION BEING PROCESSED
14 BY THE SECOND MUNICIPALITY COMPLIES WITH SECTION 30 OF ARTICLE II
15 OF THE STATE CONSTITUTION AND THE APPLICABLE PROVISIONS OF
16 SECTION 31-12-106 OR 31-12-107. IN THE ABSENCE OF THE FILING OF A
17 RESPONSIVE PLEADING OR UPON A DETERMINATION THAT THE
18 ANNEXATION BEING PROCESSED BY THE SECOND MUNICIPALITY COMPLIES
19 WITH SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION AND THE
20 APPLICABLE PROVISIONS OF SECTION 31-12-106 OR 31-12-107, all further
21 proceedings for the annexation of the area claimed by both municipalities
22 shall be held in abeyance pending the holding of an election of the
23 ~~qualified~~ LANDOWNERS AND THE REGISTERED electors ~~resident~~ within
24 such area ~~or~~ as described in subsection (4) of this section for the purpose
25 of determining to which municipality such electors prefer to annex. This
26 election shall be held pursuant to the provisions of section 31-12-112,
27 except as provided in this section.

1 (3) The second municipality indicating its intent to annex shall
2 petition the district court of the county in which the area proposed to be
3 annexed is located for the election provided for in subsection (2) of this
4 section. Such petition shall be filed within thirty days after the effective
5 date of ~~the resolution of intent or the date of~~ the filing of the petition
6 described in subsection (1) of this section.

7 (4) All ~~qualified electors and qualified nonresident~~ OF THE
8 landowners AND THE REGISTERED ELECTORS in the area claimed by both
9 municipalities shall be entitled to vote at said election. Any corporate
10 landowner may by resolution designate one of its officers to cast its vote.

11 (5) (b) If more than two municipalities dispute the same area, the
12 ballot shall list each municipality in order of the date when it started
13 proceedings under this part 1 and in the same form as specified in this
14 section. If the disputed area does have more than two-thirds boundary
15 contiguity with one of the municipalities, only the question in
16 subparagraph (II) of paragraph (a) of this subsection (5) shall appear on
17 the ballot. If both questions are to appear on the ballot, the notice of the
18 election shall contain a statement that all OF THE LANDOWNERS AND THE
19 REGISTERED electors may vote on the second question irrespective of their
20 votes on the first question.

21 (7) If the vote is in favor of annexation, the municipality to which
22 the ~~qualified electors or qualified electors and~~ landowners AND THE
23 REGISTERED ELECTORS indicate their intention to annex may proceed to
24 hold a hearing as provided in this part 1 and to comply with the other
25 provisions of this part 1 with respect to the area claimed by both
26 municipalities; if such area is found to comply with the applicable ~~parts~~
27 PROVISIONS of sections 31-12-104 and 31-12-105 and if the entire area

1 proposed to be annexed has been in dispute, the subject election shall be
2 deemed to comply with the provisions of sections 31-12-107 and
3 31-12-112 relative to an election of ~~qualified electors or qualified electors~~
4 ~~and~~ THE landowners AND THE REGISTERED ELECTORS for areas having less
5 than two-thirds boundary contiguity with the annexing municipality.

6 (8) If more than two municipalities claim a disputed area and a
7 majority of the votes are cast in favor of one municipality, that
8 municipality may proceed to hold a hearing as provided in this part 1 and
9 to comply with the other provisions of this part 1 with respect to the area
10 claimed by the several municipalities; but the subject election shall be
11 deemed to comply with the provisions of sections 31-12-107 and
12 31-12-112 relative to an election of ~~qualified electors or qualified electors~~
13 ~~and~~ THE landowners AND THE REGISTERED ELECTORS for areas having less
14 than two-thirds boundary contiguity with the annexing municipality. If
15 no municipality receives a majority, a runoff election between the two
16 municipalities receiving the largest pluralities shall be held no sooner than
17 four weeks and no longer than seven weeks after the date of the initial
18 election to determine to which municipality the landowners AND THE
19 REGISTERED ELECTORS desire to annex. Notice of such second election
20 shall be given in the manner directed by the court. This election shall
21 have the same effect as if it were the original election between the two
22 municipalities involved.

23 (10) Unless the area claimed by more than one municipality
24 constitutes more than one-third of the area proposed for annexation,
25 inclusive of streets, to the first annexing municipality, nothing in this part
26 1 shall prevent a municipality from proceeding with the annexation of that
27 part of the area described in its resolution which is not claimed by another

1 municipality without waiting for the holding of the election described in
2 this section. In the hearing required by ~~section 31-12-109~~ SECTIONS
3 31-12-108 AND 31-12-109 and the findings required by section 31-12-110,
4 the issue shall be the compliance of the undisputed portion of the area
5 proposed for annexation with the requirements and limitations of sections
6 31-12-104 and 31-12-105. If the annexation was initiated by petition
7 under section 31-12-107 and if the requirements of said sections
8 31-12-104 and 31-12-105 are met, the annexing municipality shall submit
9 the issue of annexation with the changed boundaries to an election of
10 ~~qualified electors or of qualified electors and~~ THE landowners AND THE
11 REGISTERED ELECTORS to be held in accordance with section 31-12-112.

12 **SECTION 12.** 31-12-116 (1) (a) and (3), Colorado Revised
13 Statutes, are amended to read:

14 **31-12-116. Review.** (1) (a) If any landowner or any ~~qualified~~
15 REGISTERED elector in the area proposed to be annexed, the board of
16 county commissioners of any county governing the area proposed to be
17 annexed, or any municipality within one mile of the area proposed to be
18 annexed believes itself to be aggrieved by the acts of the governing body
19 of the annexing municipality in annexing said area to said municipality,
20 such acts or findings of the governing body may be reviewed by
21 certiorari in accordance with the Colorado rules of civil procedure. Such
22 review proceedings shall be instituted in any district court having
23 jurisdiction of the county in which the annexed area is located. In no
24 event shall such a proceeding be instituted prior to the effective date of
25 the annexing ordinance by the annexing municipality.

26 (3) Review proceedings instituted under this section shall not be
27 extended further than to determine whether the ANNEXATION COMPLIES

1 WITH THE PROVISIONS OF SECTION 30 OF ARTICLE II OF THE STATE
2 CONSTITUTION AND WHETHER THE governing body has exceeded its
3 jurisdiction or abused its discretion under the provisions of this part 1.

4 **SECTION 13. Applicability.** This act shall apply to annexation
5 proceedings commenced before, on, or after the applicable effective date
6 of this act.

7 **SECTION 14. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.