

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 10-0435.01 Bob Lackner

**HOUSE BILL 10-1259**

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**HOUSE SPONSORSHIP**

**Nikkel,**

**SENATE SPONSORSHIP**

**Lundberg,**

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**House Committees**

Local Government

Judiciary

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**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.**

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**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.*

HOUSE  
Am ended 2nd Reading  
March 15, 2010

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.

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

17 **31-12-103. Definitions.** As used in this part 1, unless the context  
18 otherwise requires:

19 (7) ~~"Nonresident landowner" means any person owning property~~  
20 ~~in the area proposed to be annexed who is not a qualified elector and who~~  
21 ~~is at least eighteen years of age as attested to by sworn affidavit.~~

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

25 (10.5) "REGISTERED ELECTOR" SHALL HAVE THE SAME MEANING  
26 AS SET FORTH IN SECTION 1-1-104 (35), C.R.S.

27 **SECTION 3.** The introductory portion to 31-12-104 (1), Colorado

1 Revised Statutes, is amended to read:

2 **31-12-104. Eligibility for annexation.** (1) NO UNINCORPORATED  
3 AREA MAY BE ANNEXED TO A MUNICIPALITY UNLESS ONE OF THE  
4 CONDITIONS SET FORTH IN SECTION 30 (1) OF ARTICLE II OF THE STATE  
5 CONSTITUTION FIRST HAS BEEN MET. An area is eligible for annexation if  
6 THE PROVISIONS OF SECTION 30 OF ARTICLE II OF THE STATE  
7 CONSTITUTION HAVE BEEN COMPLIED WITH AND the governing body, at a  
8 hearing as provided in section 31-12-109, finds and determines:

9

10 **SECTION 4.** 31-12-106 (1) and (3), Colorado Revised Statutes,  
11 are amended to read:

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

26 (3) **Annexation of unincorporated municipally owned land.**  
27 When the municipality is the sole owner of the area that it desires to

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

8 **SECTION 5.** The introductory portion to 31-12-107 (1),  
9 31-12-107 (1) (a), (1) (c) (III), and (1) (g), the introductory portion to  
10 31-12-107 (2), and 31-12-107 (2) (a), (2) (c) (II), and (2) (e), Colorado  
11 Revised Statutes, are amended to read:

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

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

21 (c) The petition shall contain the following:

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

27 (g) If the petition is found to be in substantial compliance with

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

12 (2) Petition for annexation election IN ACCORDANCE WITH SECTION  
13 30 (1) (a) OF ARTICLE II OF THE STATE CONSTITUTION:

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

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

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

25 (c) The petition for annexation election shall comply with the  
26 provisions of paragraph (c) of subsection (1) of this section; except that:

27 (II) The petition shall request the annexing municipality to

1 commence proceedings for the holding of an annexation election IN  
2 ACCORDANCE WITH SECTION 30 (1) (a) OF ARTICLE II OF THE STATE  
3 CONSTITUTION.

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

17 **SECTION 6.** 31-12-108 (1) and (2), Colorado Revised Statutes,  
18 are amended to read:

19 **31-12-108. Setting hearing date - notice given.** (1) As a part of  
20 the resolution initiating annexation proceedings by the municipality or of  
21 a resolution finding substantial compliance of an annexation petition or  
22 of a petition for an annexation election, the governing body of the  
23 annexing municipality shall establish a date, time, and place that the  
24 governing body will hold a hearing to determine if the proposed  
25 annexation complies with SECTION 30 OF ARTICLE II OF THE STATE  
26 CONSTITUTION AND sections 31-12-104 and 31-12-105 or such parts  
27 PROVISIONS thereof as may be required to establish eligibility under the



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

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

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

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

7 **31-12-110. Findings.** (1) Upon the completion of the hearing,  
8 the governing body of the annexing municipality, by resolution, shall set  
9 forth its findings of fact and its conclusion based thereon with reference  
10 to the following matters:

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

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

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

20 **SECTION 8.** 31-12-111, Colorado Revised Statutes, is amended  
21 to read:

22 **31-12-111. Annexation without election.** If the resolution of the  
23 governing body adopted pursuant to section 31-12-110 determines that  
24 the applicable ~~parts~~ PROVISIONS of SECTION 30 OF ARTICLE II OF THE  
25 STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 have been  
26 met, and further determines that an election is not required under section  
27 31-12-107 (2), and does not determine that additional terms and

1 conditions are to be imposed, the governing body may thereupon annex  
2 the area proposed to be annexed by ordinance.

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

5 **31-12-112. Election - annexation pursuant to election.** (1) If  
6 the governing body determines that an annexation election is required  
7 under the provisions of SECTION 30 (1) (a) OF THE STATE CONSTITUTION  
8 AND section 31-12-107 (2) or that additional terms and conditions should  
9 be imposed upon the area proposed to be annexed, an election shall be  
10 called, as provided in this section, to determine whether a majority of the  
11 ~~qualified~~ LANDOWNERS AND THE REGISTERED electors IN THE AREA  
12 PROPOSED TO BE ANNEXED approve such annexation, with such terms and  
13 conditions, if any, as may attach thereto.

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

23 (5) Such commissioners shall forthwith call an election of all the  
24 ~~qualified electors or qualified electors and~~ landowners AND THE  
25 REGISTERED ELECTORS IN THE AREA PROPOSED TO BE ANNEXED, to be held  
26 at some convenient place within the area proposed to be annexed. The  
27 commissioners shall establish such polling places within the area

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

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

19 **SECTION 10.** 31-12-114 (1), (2), [REDACTED] (4), (5) (b), (7), (8), and  
20 (10), Colorado Revised Statutes, are amended to read:

21 **31-12-114. Conflicting annexation claims of two or more**  
22 **municipalities.** (1) At any time during a period of notice given by a  
23 municipality pursuant to section 31-12-108, any other municipality may,  
24 adopt a resolution of intent pursuant to section 31-12-106 or, SUBJECT TO  
25 COMPLIANCE WITH SECTION 30 OF ARTICLE II OF THE STATE  
26 CONSTITUTION, receive a petition for annexation or a petition for an  
27 annexation election pursuant to section 31-12-107 with the area partly or

1 wholly overlapping the area proposed for annexation by the first  
2 municipality. If this occurs, the respective rights of the several  
3 municipalities shall be determined in accordance with an election as  
4 provided in this section.

5 (2) All further proceedings for the annexation of the area claimed  
6 by both municipalities shall be held in abeyance pending the holding of  
7 an election of the ~~qualified~~ LANDOWNERS AND THE REGISTERED electors  
8 ~~resident~~ within such area ~~or~~ as described in subsection (4) of this section  
9 for the purpose of determining to which municipality such electors prefer  
10 to annex. This election shall be held pursuant to the provisions of section  
11 31-12-112, except as provided in this section.

12 [REDACTED]

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

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

27 (7) If the vote is in favor of annexation, the municipality to which

1 the ~~qualified electors or qualified electors~~ and landowners AND THE  
2 REGISTERED ELECTORS indicate their intention to annex may proceed to  
3 hold a hearing as provided in this part 1 and to comply with the other  
4 provisions of this part 1 with respect to the area claimed by both  
5 municipalities; if such area is found to comply with the applicable ~~parts~~  
6 PROVISIONS of sections 31-12-104 and 31-12-105 and if the entire area  
7 proposed to be annexed has been in dispute, the subject election shall be  
8 deemed to comply with the provisions of sections 31-12-107 and  
9 31-12-112 relative to an election of ~~qualified electors or qualified electors~~  
10 ~~and~~ THE landowners AND THE REGISTERED ELECTORS for areas having less  
11 than two-thirds boundary contiguity with the annexing municipality.

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

1 municipalities involved.

2 (10) Unless the area claimed by more than one municipality  
3 constitutes more than one-third of the area proposed for annexation,  
4 inclusive of streets, to the first annexing municipality, nothing in this part  
5 shall prevent a municipality from proceeding with the annexation of that  
6 part of the area described in its resolution which is not claimed by another  
7 municipality without waiting for the holding of the election described in  
8 this section. In the hearing required by ~~section 31-12-109~~ SECTIONS  
9 31-12-108 AND 31-12-109 and the findings required by section 31-12-110,  
10 the issue shall be the compliance of the undisputed portion of the area  
11 proposed for annexation with the requirements and limitations of sections  
12 31-12-104 and 31-12-105. If the annexation was initiated by petition  
13 under section 31-12-107 and if the requirements of said sections  
14 31-12-104 and 31-12-105 are met, the annexing municipality shall submit  
15 the issue of annexation with the changed boundaries to an election of  
16 ~~qualified electors or of qualified electors and~~ THE landowners AND THE  
17 REGISTERED ELECTORS to be held in accordance with section 31-12-112.

18 **SECTION 11.** 31-12-116 (1) (a), Colorado Revised Statutes, is  
19 amended to read:

20 **31-12-116. Review.** (1) (a) If any landowner or any ~~qualified~~  
21 REGISTERED elector in the area proposed to be annexed, the board of  
22 county commissioners of any county governing the area proposed to be  
23 annexed, or any municipality within one mile of the area proposed to be  
24 annexed believes itself to be aggrieved by the acts of the governing body  
25 of the annexing municipality in annexing said area to said municipality,  
26 such acts or findings of the governing body may be reviewed by certiorari  
27 in accordance with the Colorado rules of civil procedure. Such review

1 proceedings shall be instituted in any district court having jurisdiction of  
2 the county in which the annexed area is located. In no event shall such  
3 a proceeding be instituted prior to the effective date of the annexing  
4 ordinance by the annexing municipality.

5

6 **SECTION 12. Act subject to petition - effective date.** This act  
7 shall take effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly (August  
9 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
10 referendum petition is filed pursuant to section 1 (3) of article V of the  
11 state constitution against this act or an item, section, or part of this act  
12 within such period, then the act, item, section, or part shall not take effect  
13 unless approved by the people at the general election to be held in  
14 November 2010 and shall take effect on the date of the official  
15 declaration of the vote thereon by the governor.