

53A-2-118 Creation of new school district -- Initiation of process -- Procedures to be followed.

- (1) A new school district may be created from one or more existing school districts, as provided in this section.
- (2)
 - (a) The process to create a new school district may be initiated:
 - (i) through a citizens' initiative petition;
 - (ii) at the request of the board of the existing district or districts to be affected by the creation of the new district; or
 - (iii) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53A-2-118.1.
 - (b)
 - (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.
 - (ii) Each request or petition submitted under Subsection (2)(a) shall:
 - (A) be filed with the clerk of each county in which any part of the proposed new school district is located;
 - (B) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;
 - (C) describe the proposed new school district boundaries; and
 - (D) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.
 - (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.
 - (d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.
 - (e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.
 - (f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each county with which a request or petition is filed shall:
 - (i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and
 - (ii)
 - (A) if the county clerk determines that the request or petition complies with the applicable requirements:
 - (I) certify the request or petition and deliver the certified request or petition to the county legislative body; and
 - (II) mail or deliver written notification of the certification to the contact sponsor; or
 - (B) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

- (g) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (2)(f), the request or petition shall be considered to be certified.
- (h)
 - (i) If the county clerk rejects a request or petition, the request or petition may be amended to correct the deficiencies for which it was rejected and then refiled.
 - (ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.
- (i) If a county legislative body receives a request from a school board under Subsection (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or before December 1:
 - (i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;
 - (ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and
 - (iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, the proposal shall be submitted to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.
- (3)
 - (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).
 - (b) The advisory committee shall:
 - (i) seek input from:
 - (A) those requesting the creation of the new school district;
 - (B) the school board and school personnel of each existing school district;
 - (C) those citizens residing within the geographical boundaries of each existing school district;
 - (D) the State Board of Education; and
 - (E) other interested parties;
 - (ii) review data and gather information on at least:
 - (A) the financial viability of the proposed new school district;
 - (B) the proposal's financial impact on each existing school district;
 - (C) the exact placement of school district boundaries; and
 - (D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and
 - (iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.
- (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
 - (a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).
 - (b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.
 - (c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.
 - (d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:
 - (i) by the legal voters of each existing school district;

- (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
 - (iii) at the next regular general election or municipal general election, whichever is first.
 - (e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.
 - (f) Each county legislative body shall comply with the requirements of Section 53A-2-101.5.
 - (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.
- (5)
- (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:
 - (i) by the legal voters residing within the proposed new school district boundaries;
 - (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
 - (iii) at the next regular general election or municipal general election, whichever is first.
 - (b)
 - (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new district:
 - (A) each county legislative body shall comply with the requirements of Section 53A-2-101.5; and
 - (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.
 - (ii) Notwithstanding the creation of a new district as provided in Subsection (5)(b)(i)(B):
 - (A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board general election date described in Subsection 53A-2-118.1(3)(a)(i);
 - (B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and
 - (C) each existing district shall continue, until the time specified in Subsection (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Amended by Chapter 230, 2010 General Session