

1                                   **PROCESS FOR CREATION OF NEW SCHOOL**  
2   **DISTRICTS**

3   2002 GENERAL SESSION  
4   STATE OF UTAH

5   **Sponsor: David N. Cox**

6   **This act modifies provisions related to public schools. The act provides a process for creating**  
7   **new school districts. It also provides for the transfer of property to and the assumption of**  
8   **indebtedness by the new school district and for the election of new school board members.**  
9   **The act takes effect July 1, 2002.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12                   **53A-2-102.5**, Utah Code Annotated 1953

13                   **53A-2-102.7**, Utah Code Annotated 1953

14                   **53A-2-102.9**, Utah Code Annotated 1953

15 *Be it enacted by the Legislature of the state of Utah:*

16                   Section 1. Section **53A-2-102.5** is enacted to read:

17                   **53A-2-102.5. Creation of new school district by county legislative body -- Initiation**  
18 **of process -- Procedures to be followed.**

19                   (1) A county legislative body may create a new school district from an existing school  
20 district within the geographical boundaries of the county under the procedures set forth in Sections  
21 53A-2-102.5 through 53A-2-102.9.

22                   (2) (a) The process may be initiated:

23                   (i) at the request of **h** [a member of] **h** the county legislative body;

24                   (ii) through a citizens' initiative petition;

25                   (iii) at the request of the State Board of Education; **h** [or] **h**

26                   (iv) at the request of the Legislature or the governor **h** ; OR

26a                   **(v) AT THE REQUEST OF THE BOARD OF THE EXISTING DISTRICT OR DISTRICTS TO BE**  
26b **AFFECTED BY THE CREATION OF THE NEW DISTRICT **h** .**

27                   (b) A petition submitted under Subsection (2)(a)(ii) must be signed by qualified electors



28 residing within the geographical boundaries of the proposed new school district equal in number  
29 to at least 25% of the number of electors in the area who voted for the office of governor at the last  
30 regular general election.

31 (c) The process may only be initiated once for each of the procedures referred to in  
32 Subsection (2)(a) during any four-year period.

33 (d) A new district may not be formed if the student population of the proposed new district  
34 is under 1,000 or the existing district's student population would be under 1,000 students because  
35 of the creation of the new school district.

36 (3) (a) The county legislative body shall appoint an ad hoc advisory committee to review  
37 and make recommendations on a request for the creation of a new school district submitted under  
38 Subsection (2)(a).

39 (b) The advisory committee shall:

40 (i) seek input from:

41 (A) those requesting the creation of the new school district;

42 (B) the school board and school personnel of the existing school district;

43 (C) those citizens residing within the geographical boundaries of the existing school  
44 district;

45 (D) the State Office of Education; and

46 (E) other interested parties;

47 (ii) review data and gather information on at least:

48 (A) the financial viability of the proposed new school district;

49 (B) the proposal's financial impact on the existing school district;

50 (C) the exact placement of school district boundaries; and

51 (D) the positive and negative effects of creating a new school district and whether the  
52 positive effects outweigh the negative if a new school district were to be created; and

53 (iii) make a report to the county legislative body in a public meeting on the committee's  
54 activities, together with a recommendation on whether to create a new school district.

55 (4) (a) The county legislative body shall provide for a 45-day public comment period on  
56 the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).

57 (b) Within 14 days after the end of the comment period, the county legislative body shall  
58 take a formal vote on the creation of the proposed new school district.

59 (c) The proposal must be approved by a majority of the county legislative body under  
 60 Subsection (4)(b) in order to take effect.

61 h [(5) (a) If the proposal is approved under Subsection (4)(c), the county legislative body  
 62 shall request the Legislature, by joint resolution, ratify the proposal during the next general session  
 63 following approval of the proposal under Subsection (4)(c):

64 —— (b) An affirmative vote by a majority of the membership of each house of the Legislature  
 65 is required for ratification, consistent with Utah Constitution, Article VI, Section 22:

66 —— (c) Creation of the new school district shall occur upon ratification by the Legislature  
 67 under Subsection (5)(b):]

67a (d) IF THE PROPOSAL IS APPROVED UNDER SUBSECTION (4)(b), THE COUNTY  
 67b LEGISLATIVE BODY SHALL SUBMIT THE PROPOSAL TO THE COUNTY CLERK TO BE VOTED ON IN  
 67c ACCORDANCE WITH TITLE 20A, ELECTION CODE, AT THE NEXT GENERAL ELECTION, BEGINNING  
 67d WITH THE GENERAL ELECTION HELD IN THE YEAR 2004.

67e (e) CREATION OF THE NEW SCHOOL DISTRICT SHALL OCCUR IF A MAJORITY OF THE  
 67f ELECTORS WITHIN THE EXISTING SCHOOL DISTRICT VOTING ON THE PROPOSAL FAVOR THE  
 67g CREATION OF THE NEW DISTRICT. h

68 Section 2. Section 53A-2-102.7 is enacted to read:

69 **53A-2-102.7. Transfer of property to new school district -- Rights and obligations of**  
 70 **new school board -- Outstanding indebtedness.**

71 (1) (a) (i) Following approval of the creation of a new school district under Section  
 72 53A-2-102.5, the local school board of the district from which the new district was created shall  
 73 work with the school board of the new district to convey and deliver to that board all school  
 74 property which the new district is entitled to receive.

75 (ii) Any disagreements as to the disposition of property under Subsection (1)(a) shall be  
 76 resolved by the county legislative body.

77 (b) Title vests in the new school board, including all rights, claims, and causes of action  
 78 to or for the property, for the use or the income from the property, for conversion, disposition, or  
 79 withholding of the property, or for any damage or injury to the property.

80 (c) The new school board may bring and maintain actions to recover, protect, and preserve  
 81 the property and rights of the district's schools and to enforce contracts.

82 (d) The new board shall assume and be liable for its share of the former district's debt as  
 83 calculated by the percentage of the former district's tax base now included in the new district's  
 84 boundaries.

85 (e) The intangible property of the existing school district shall be prorated between it and  
 86 the new district on the same basis used to determine the amount of bonded indebtedness to be

87 assumed by the new school district.

88 (2) (a) The two school boards referred to in Subsection (1)(a) shall determine the portion

89 of bonded indebtedness and other indebtedness of the transferor district for which the transferred

90 property remains subject to the levy of taxes to pay a proportionate share of the outstanding bonded  
91 indebtedness of the transferor.

92 (b) This shall be done by:

93 (i) determining the amount of the outstanding bonded indebtedness and other indebtedness  
94 of the transferor school board;

95 (ii) determining the total taxable value of the property of the transferor school district and  
96 the taxable value of the property to be transferred; and

97 (iii) calculating the portion of the indebtedness of the transferor school district for which  
98 the transferred portion retains liability.

99 (3) (a) The agreement reflecting these determinations shall take effect upon being filed  
100 with the county legislative body and the State Board of Education.

101 (b) The transferred property remains subject to the levy of taxes to pay a proportionate  
102 share of the outstanding indebtedness of the transferor school board.

103 (c) The transferee school board shall:

104 (i) assume the obligation to pay the proportionate share of the transferor school board's  
105 indebtedness that has been determined under Subsection (2) to be the obligation of the transferred  
106 portion;

107 (ii) levy a tax on the transferred territory sufficient to pay the proportionate share of the  
108 indebtedness determined under this section; and

109 (iii) turn over the proceeds of the tax to the business administrator of the transferor board.

110 (4) The two school boards referred to in Subsection (1)(a) shall determine by mutual  
111 agreement the disposition of bonds approved but not issued by the transferor school district prior  
112 to the creation of the new school district based primarily on the representations made to the voters  
113 at the time of the bond election.

114 (5) (a) The school boards of the school districts affected by this section shall, within 45  
115 days of the creation of the new school district, file a written notice of the action with the State Tax  
116 Commission.

117 (b) The notice shall include:

118 (i) a copy of the request or initiative petition referred to in Section 53A-2-102.5 requesting  
119 the creation of a new school district;

120 (ii) a certification that all necessary legal requirements relating to the creation of the new

121 school district have been completed; and

122 (iii) a map or plat that delineates a metes and bounds description of the area affected and  
123 evidence that the information has been recorded by the county recorder.

124 (6) An employee of the transferor school district who becomes an employee of the newly  
125 created school district shall receive the same considerations as transferred employees under Section  
126 53A-2-116.

127 Section 3. Section **53A-2-102.9** is enacted to read:

128 **53A-2-102.9. School board membership -- Elections -- Terms.**

129 (1) Upon the creation of a new school district under Section 53A-2-102.5, the county  
130 legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

131 (2) (a) Except as otherwise provided in this section, school board membership in the  
132 affected school districts shall be determined under Sections 20A-1-511, 20A-14-201, and  
133 20A-14-202.

134 (b) (i) Current school board members who reside in either the existing or newly created  
135 school district shall serve out the remainder of their terms.

136 (ii) The county legislative body shall call a special election for the purpose of electing  
137 additional members to the school boards.

138 (c) (i) Three members of a five-member board and four members of a seven-member board  
139 in the affected districts shall serve initial terms of four years.

140 (ii) Two members of a five-member board and three members of a seven-member board  
141 in the affected districts shall serve initial terms of two years.

142 (iii) All subsequent terms are for four years.

143 Section 4. **Effective date.**

144 This act takes effect on July 1, 2002.

**Legislative Review Note**  
**as of 12-19-01 8:44 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**