

**INTERLOCAL AGREEMENT PARTICIPANT
REQUIREMENTS FOR CREATION OF NEW
SCHOOL DISTRICT**

2007 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Karen W. Morgan

Senate Sponsor: Patricia W. Jones

LONG TITLE

General Description:

This bill modifies a provision relating to requirements imposed on interlocal agreement participants that enter into an interlocal agreement to create a new school district.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for interlocal agreement participants to submit to voter approval a proposal to create a new school district.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

53A-2-118.1, as last amended by Laws of Utah 2007, Chapter 215

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

Section 1. Section **53A-2-118.1** is amended to read:

53A-2-118.1. Option for school district creation.

(1) After conducting a feasibility study, a city of the first or second class, as defined under Section 10-2-301, may by majority vote of the legislative body, submit for voter approval

30 a measure to create a new school district with boundaries contiguous with that city's
31 boundaries, in accordance with Section 53A-2-118.

32 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,
33 may, together with one or more other cities, towns, or the county enter into an interlocal
34 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose
35 of submitting for voter approval a measure to create a new school district.

36 (b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under
37 Subsection (2)(a) may submit a proposal for voter approval if:

38 (A) the interlocal agreement participants conduct a feasibility study prior to submitting
39 the proposal to the county;

40 (B) the combined population within the proposed new school district boundaries meets
41 the minimum population threshold for a city of the second class; ~~and~~

42 (C) the new school district boundaries:

43 (I) are contiguous;

44 (II) do not completely surround or otherwise completely geographically isolate a
45 portion of an existing school district that is not part of the proposed new school district from
46 the remaining part of the existing school district, except as provided in Subsection (2)(d)(iii);

47 (III) include the entire boundaries of each participant city or town, except as provided
48 in Subsection (2)(d)(ii); and

49 (IV) subject to Subsection (2)(b)(ii), do not cross county lines[-]; and

50 (D) the combined population within the proposed new school district of interlocal
51 agreement participants that have entered into an interlocal agreement proposing to create a new
52 school district is at least 80% of the total population of the proposed new school district.

53 (ii) For purposes of Subsection (2)(b)(i)(C)(IV) and Subsection 53A-2-118(1), a
54 municipality located in more than one county is considered to be entirely within the same county
55 as other participants in an interlocal agreement under Subsection (2)(a) if more of the
56 municipality's land area and population is located in that same county than outside the county.

57 (c) (i) A county may only participate in an interlocal agreement under this Subsection

58 (2) for the unincorporated areas of the county.

59 (ii) Boundaries of a new school district created under this section may include a portion
60 of the unincorporated area of the county, including a portion of a township.

61 (d) (i) As used in this Subsection (2)(d):

62 (A) "Isolated area" means an area that:

63 (I) is entirely within the boundaries of a municipality that, except for that area, is
64 entirely within a school district different than the school district in which the area is located; and

65 (II) would, because of the creation of a new school district from the existing district in
66 which the area is located, become completely geographically isolated.

67 (B) "Municipality's school district" means the school district that includes all of the
68 municipality in which the isolated area is located except the isolated area.

69 (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in
70 an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area
71 within the municipality's boundaries if the portion of the municipality proposed to be included in
72 the new school district would, if not included, become an isolated area upon the creation of the
73 new school district.

74 (iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school
75 district may be submitted for voter approval pursuant to an interlocal agreement under
76 Subsection (2)(a), even though the new school district boundaries would create an isolated area,
77 if:

78 (I) the potential isolated area is contiguous to one or more of the interlocal agreement
79 participants;

80 (II) the interlocal participants submit a written request to the municipality in which the
81 potential isolated area is located, requesting the municipality to enter into an interlocal
82 agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to
83 create a new school district that includes the potential isolated area; and

84 (III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the
85 municipality has not entered into an interlocal agreement as requested in the request.

86 (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold
87 one or more public hearings to allow input from the public and affected school districts
88 regarding whether or not the municipality should enter into an interlocal agreement with respect
89 to the potential isolated area.

90 (C) (I) This Subsection (2)(d)(iii)(C) applies if:

91 (Aa) a new school district is created under this section after a measure is submitted to
92 voters based on the authority of Subsection (2)(d)(iii)(A); and

93 (Bb) the creation of the new school district results in an isolated area.

94 (II) The isolated area shall, on July 1 of the second calendar year following the election
95 at which voters approve the creation of a new school district, become part of the municipality's
96 school district.

97 (III) Unless the isolated area is the only remaining part of the existing district, the
98 process described in Subsection (4) shall be modified to:

99 (Aa) include a third transition team, appointed by the local school board of the
100 municipality's school district, to represent that school district;

101 (Bb) require allocation of the existing district's property among the new district, the
102 remaining district, and the municipality's school district;

103 (Cc) require each of the three transition teams to appoint one member to the
104 three-member arbitration panel, if an arbitration panel is established; and

105 (Dd) require the municipality's school district to bear 1/3 of the costs of arbitration.

106 (IV) The existing district shall continue to provide educational services to the isolated
107 area until July 1 of the second calendar year following the election at which voters approve the
108 creation of a new school district.

109 (3) (a) If a proposal under this section is approved by voters:

110 (i) an election shall be held on the June special election date, as provided in Section
111 20A-1-204, in the year following the election at which voters approved the creation of a new
112 school district, to elect:

113 (A) all members to the board of the new school district; and

114 (B) all members to the board of the remaining district;
115 (ii) school district property shall be divided between the existing school district and the
116 new school district as provided in Subsection (4);
117 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
118 53A-2-122; and
119 (iv) within one year after the new district begins providing educational services, the
120 superintendent of each remaining district affected and the superintendent of the new district
121 shall meet, together with the Superintendent of Public Instruction, to determine if further
122 boundary changes should be proposed in accordance with Section 53A-2-104 or Subsection
123 53A-2-118(2).

124 (b) Each member elected to a school district board of a new district and remaining
125 district at an election under Subsection (3)(a)(i) shall take office on July 15 immediately
126 following the election.

127 (c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school
128 district board of the new district and remaining district who are elected at an election under
129 Subsection (3)(a)(i) shall be staggered and adjusted by the county legislative body so that:

130 (A) the school district board members' successors are elected at a future regular general
131 election; and
132 (B) the terms of their successors coincide with the schedule of terms for school district
133 board members established in Section 20A-14-202.

134 (ii) (A) The term of a member elected to a school district board at an election under
135 Subsection (3)(a)(i) may not be less than 17 months.

136 (B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a
137 member elected to a school district board at an election under Subsection (3)(a)(i) held in an
138 even-numbered year may exceed four years but may not exceed five years.

139 (d) (i) The term of each member of the school district board of the existing district
140 terminates on July 15 of the second year after the election at which voters approve the creation
141 of a new district, regardless of when the term would otherwise have terminated.

142 (ii) Notwithstanding the election of a board for the new district and a board for the
143 remaining district under Subsection (3)(a)(i), the board of the existing district shall continue,
144 until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority
145 as a board to the extent necessary to continue to provide educational services to the entire
146 existing district as though the new district had not been created.

147 (iii) A person may simultaneously serve as a member of the board of an existing district
148 and a member of the board of:

- 149 (A) a new district; or
- 150 (B) a remaining district.

151 (4) (a) Within 30 days after the canvass of an election at which voters approve the
152 creation of a new school district under this section:

153 (i) a transition team to represent the remaining district shall be appointed by the
154 members of the existing district board who reside within the area of the remaining district, in
155 consultation with:

- 156 (A) the legislative bodies of all municipalities in the area of the remaining district; and
- 157 (B) the legislative body of the county in which the remaining district is located, if the
158 remaining district includes one or more unincorporated areas of the county; and

159 (ii) another transition team to represent the new district shall be appointed by:

- 160 (A) for a new district located entirely within the boundaries of a single city, the
161 legislative body of that city; or
- 162 (B) for each other new district, the legislative bodies of all interlocal agreement
163 participants.

164 (b) The local board of the existing school district shall:

165 (i) within 30 days after the canvass of an election at which voters approve the creation
166 of a new school district under this section, prepare an inventory of the existing district's assets
167 and liabilities; and

168 (ii) within 45 days after the canvass, deliver a copy of the inventory to each of the
169 transition teams.

170 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to
171 Subsection (4)(c)(iii), determine the allocation of the existing district's property between the
172 remaining district and the new district in accordance with Subsection (4)(c)(ii).

173 (B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A)
174 before July 1 of the year following the election at which voters approve the creation of a new
175 district, unless that deadline is extended by the mutual agreement of:

176 (I) the school district board of the remaining district; and

177 (II) (Aa) the legislative body of the city in which the new district is located, for a new
178 district located entirely within a single city; or

179 (Bb) the legislative bodies of all interlocal agreement participants, for each other new
180 district.

181 (ii) Subject to Subsection (4)(c)(iii), all property of the existing district, both tangible
182 and intangible, real and personal, shall be allocated between the existing district and the new
183 district in a way that is fair and equitable to both the existing district and the new district, taking
184 into account:

185 (A) the relative student populations between the existing district and new district;

186 (B) the relative assessed value of taxable property between the existing district and the
187 new district;

188 (C) the historical amount of property used to deliver educational services to students in
189 the existing district and the new district; and

190 (D) any other factors that the transition teams consider relevant in dividing the property
191 in a fair and equitable manner.

192 (iii) (A) The transition teams shall allocate school buildings and associated property
193 used primarily to provide educational services to local residents and not serving district-wide
194 purposes to the school district in which the buildings are geographically located after the
195 creation of the new district.

196 (B) Except as provided in Subsection (4)(c)(iii)(A), nothing in this Subsection (4)(c)
197 may be construed to limit the ability of the transition teams to:

198 (I) provide that an existing district's property be shared by a remaining district and new
199 district;

200 (II) determine, by mutual agreement, that the value of the school buildings and
201 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration
202 in the asset allocation process under this Subsection (4)(c); or

203 (III) provide for any other arrangement with respect to existing district property that is
204 beneficial to and in the best interests of the remaining district and new district.

205 (d) (i) Each disagreement between the transition teams about the proper allocation of
206 property between the districts shall be resolved by binding arbitration to a three-member
207 arbitration panel.

208 (ii) Each transition team shall appoint one member to an arbitration panel under this
209 Subsection (4)(d), and those two members shall appoint a third member.

210 (iii) The costs of arbitration shall initially be borne entirely by the existing district, but
211 the new district shall reimburse the existing district half of those costs within one year after the
212 new district begins providing educational services.

213 (e) Each decision of the transition teams and of the arbitration panel resolving a
214 disagreement between the transition teams is final and binding on the boards of the existing
215 district and new district.

216 (f) (i) All costs and expenses of the transition team that represents a remaining district
217 shall be borne by the remaining district.

218 (ii) All costs and expenses of the transition team that represents a new district shall:

219 (A) initially be borne by:

220 (I) the city whose legislative body appoints the transition team, if the transition team is
221 appointed by the legislative body of a single city; or

222 (II) the interlocal agreement participants, if the transition team is appointed by the
223 legislative bodies of interlocal agreement participants; and

224 (B) be reimbursed to the city or interlocal agreement participants by the new district
225 within one year after the new district begins providing educational services.

226 Section 2. **Effective date.**

227 If approved by two-thirds of all the members elected to each house, this bill takes effect
228 upon approval by the governor, or the day following the constitutional time limit of Utah
229 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
230 the date of veto override.