

SCHOOL DISTRICT DIVISION PROCESS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill changes certain new school district creation procedures.

Highlighted Provisions:

This bill:

► changes a process to create a new school district by requiring a vote of residents within the entire existing school district.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-2-118, as last amended by Laws of Utah 2008, Chapter 92

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

Section 1. Section **53A-2-118** is amended to read:

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.



28 (2) (a) The process to create a new school district may be initiated:
29 (i) through a citizens' initiative petition;
30 (ii) at the request of the board of the existing district or districts to be affected by the
31 creation of the new district; or
32 (iii) at the request of a city within the boundaries of the school district or at the request
33 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

34 (b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified
35 electors residing within the geographical boundaries of the proposed new school district equal
36 in number to at least 15% of the number of electors in the area who voted for the office of
37 governor at the last regular general election.

38 (ii) Each request or petition submitted under Subsection (2)(a) shall:

39 (A) be filed with the clerk of each county in which any part of the proposed new school
40 district is located;

41 (B) indicate the typed or printed name and current residence address of each governing
42 board member making a request, or registered voter signing a petition, as the case may be;

43 (C) describe the proposed new school district boundaries; and

44 (D) designate up to five signers of the petition or request as sponsors, one of whom
45 shall be designated as the contact sponsor, with the mailing address and telephone number of
46 each.

47 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,
48 reinstate the signer's signature at any time before the filing of the petition by filing a written
49 withdrawal or reinstatement with the county clerk.

50 (d) The process under Subsection (2)(a)(i) may only be initiated once during any
51 four-year period.

52 (e) A new district may not be formed pursuant to Subsection (2)(a) if the student
53 population of the proposed new district is less than 3,000 or the existing district's student
54 population would be less than 3,000 because of the creation of the new school district.

55 (f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five
56 business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each
57 county with which a request or petition is filed shall:

58 (i) determine whether the request or petition complies with Subsections (2)(a), (b), (d),

59 and (e), as applicable; and

60 (ii) (A) if the county clerk determines that the request or petition complies with the
61 applicable requirements:

62 (I) certify the request or petition and deliver the certified request or petition to the
63 county legislative body; and

64 (II) mail or deliver written notification of the certification to the contact sponsor; or

65 (B) if the county clerk determines that the request or petition fails to comply with any
66 of the applicable requirements, reject the request or petition and notify the contact sponsor in
67 writing of the rejection and reasons for the rejection.

68 (g) If the county clerk fails to certify or reject a request or petition within the time
69 specified in Subsection (2)(f), the request or petition shall be considered to be certified.

70 (h) (i) If the county clerk rejects a request or petition, the request or petition may be
71 amended to correct the deficiencies for which it was rejected and then refiled.

72 (ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled
73 after having been rejected by a county clerk.

74 (i) If a county legislative body receives a request from a school board under Subsection
75 (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or
76 before December 1:

77 (i) the county legislative body shall appoint an ad hoc advisory committee, as provided
78 by Subsection (3), on or before January 1;

79 (ii) the ad hoc advisory committee shall submit its report and recommendations to the
80 county legislative body, as provided by Subsection (3), on or before July 1; and

81 (iii) if the legislative body of each county with which a request or petition is filed
82 approves a proposal to create a new district, the proposal shall be submitted to the respective
83 county clerk to be voted on by the electors of each existing district at the regular general or
84 municipal general election held in November.

85 (3) (a) The legislative body of each county with which a request or petition is filed
86 shall appoint an ad hoc advisory committee to review and make recommendations on a request
87 for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

88 (b) The advisory committee shall:

89 (i) seek input from:

90 (A) those requesting the creation of the new school district;
91 (B) the school board and school personnel of each existing school district;
92 (C) those citizens residing within the geographical boundaries of each existing school
93 district;

94 (D) the State Board of Education; and

95 (E) other interested parties;

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

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

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

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

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

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

104 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

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

108 (b) Within 14 days after the end of the comment period, the legislative body of each
109 county with which a request or petition is filed shall vote on the creation of the proposed new
110 school district.

111 (c) The proposal is approved if a majority of the members of the legislative body of
112 each county with which a request or petition is filed votes in favor of the proposal.

113 (d) If the proposal is approved, the legislative body of each county with which a
114 request or petition is filed shall submit the proposal to the county clerk to be voted on:

115 (i) by the legal voters of each existing school district;

116 (ii) in accordance with the procedures and requirements applicable to a regular general
117 election under Title 20A, Election Code; and

118 (iii) at the next regular general election or municipal general election, whichever is
119 first.

120 (e) Creation of the new school district shall occur if a majority of the electors within

121 both the proposed school district and each remaining school district voting on the proposal vote
122 in favor of the creation of the new district.

123 (f) Each county legislative body shall provide notice of the action as required in Section
124 53A-2-101.5.

125 (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is
126 approved by the electors, the existing district's documented costs to study and implement the
127 proposal shall be reimbursed by the new district.

128 (5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection
129 (2)(f) or (g), the legislative body of each county in which part of the proposed new school
130 district is located shall submit the proposal to the respective clerk of each county to be voted
131 on:

132 (i) ~~§~~ **(A)** ~~←§~~ by the legal voters residing within the [~~proposed new~~] existing school district
133 boundaries ~~§~~ **if the student enrollment in the proposed new school district is greater than or**
133a **equal to 15,000 students or 25 percent of the student enrollment of the existing school district; and**
133b **(B) by the legal voters residing within the proposed new school district boundaries if the**
133c **student enrollment in the proposed new school district is less than 15,000 students or 25**
133d **percent of the student enrollment of the existing district ←§ ;**

134 (ii) in accordance with the procedures and requirements applicable to a regular general
135 election under Title 20A, Election Code; and

136 (iii) at the next regular general election or municipal general election, whichever is
137 first.

138 (b) (i) If a majority of the legal voters ~~§~~ **[within the [~~proposed new~~] existing school**
139 **district boundaries]** ~~←§~~ voting on the proposal at an election under Subsection (5)(a) vote in favor
140 of the creation of the new district:

141 (A) each county legislative body shall, within 60 days after the canvass date, file with
142 the lieutenant governor the written notice, with the accompanying map or plat, required under
143 Section 53A-2-101.5; and

144 (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5,
145 the new district is created.

146 (ii) Notwithstanding the creation of a new district as provided in Subsection
147 (5)(b)(i)(B):

148 (A) a new school district may not begin to provide educational services to the area
149 within the new district until July 1 of the second calendar year following the creation election
150 date;

151 (B) a remaining district may not begin to provide educational services to the area

152 within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and
153 (C) each existing district shall continue, until the time specified in Subsection
154 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
155 district.

Legislative Review Note
as of **1-26-09 9:57 AM**

Office of Legislative Research and General Counsel

S.B. 123 - School District Division Process

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local governments may see increased polling costs associated with provisions outlined in the bill.
