

DIVISION OF SCHOOL DISTRICTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to certain new school district creation procedures.

Highlighted Provisions:

This bill:

- ▶ changes the process of creating a new school district by requiring a vote of residents located within each affected school district; and
- ▶ makes clarifying and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-2-118, as last amended by Laws of Utah 2010, Chapter 230

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



28 provided in this section.

29 (2) (a) The process to create a new school district may be initiated:

30 (i) through a citizens' initiative petition;

31 (ii) at the request of the school board of ~~[the]~~ an existing district or districts to be
32 affected by the creation of the new district; or

33 ~~(iii) [at the request of a city within the boundaries of the school district or at the request~~
34 ~~of interlocal agreement participants,] pursuant to Section 53A-2-118.1[-], at the request of:~~

35 (A) a city within the boundaries of an existing school district; or

36 (B) interlocal agreement participants.

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

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

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

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

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

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

50 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,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

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

55 (e) A new district may not be formed pursuant to Subsection (2)(a) if the student
56 population of the proposed new district is less than 3,000 or ~~[the existing]~~ each remaining
57 district's student population would be less than 3,000 because of the creation of the new school
58 district.

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

62 (i) determine whether the request or petition complies with Subsections (2)(a), (b), (d),
63 and (e), as applicable; and

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

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

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

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

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

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

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

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

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

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

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

89 (3) (a) The legislative body of each county with which a request or petition is filed

90 shall appoint an ad hoc advisory committee to review and make recommendations on a request
91 for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

92 (b) The advisory committee shall:

93 (i) seek input from:

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

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

96 (C) those citizens residing within the geographical boundaries of each existing school
97 district;

98 (D) the State Board of Education; and

99 (E) other interested parties;

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

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

102 (B) the proposal's financial impact on each [~~existing~~] remaining school district;

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

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

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

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

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

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

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

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

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

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

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

125 (e) Creation of the new school district shall occur if a majority of the ~~[electors]~~ voters
126 within ~~[both]~~ the proposed new school district and each remaining school district voting on the
127 proposal vote in favor of the creation of the new district.

128 (f) Each county legislative body shall comply with the requirements of Section
129 53A-2-101.5.

130 (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is
131 approved by the ~~[electors]~~ voters, the existing district's documented costs to study and
132 implement the proposal shall be reimbursed by the new district.

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

137 (i) by the legal voters ~~[residing within the proposed new]~~ of each existing school
138 district ~~[boundaries]~~;

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

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

143 (b) (i) If a majority of the legal voters within the proposed new school district
144 ~~[boundaries]~~ and a majority of the legal voters within each remaining school district voting on
145 the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new
146 district:

147 (A) each county legislative body shall comply with the requirements of Section
148 53A-2-101.5; and

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

151 (ii) Notwithstanding the creation of a new district as provided in Subsection

152 (5)(b)(i)(B):

153 (A) a new school district may not begin to provide educational services to the area
154 within the new district until July 1 of the second calendar year following the school board
155 general election date described in Subsection 53A-2-118.1(3)(a)(i);

156 (B) a remaining district may not begin to provide educational services to the area
157 within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

158 (C) each existing district shall continue, until the time specified in Subsection
159 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
160 district.

Legislative Review Note
as of 1-31-12 6:00 PM

Office of Legislative Research and General Counsel