

Chapter 3 Creating New Counties

17-3-1 By petition -- Election -- Ballots.

Whenever any number of the qualified electors of any portion of any county desire to have the territory within which they reside created into a new county they may file a petition for the creation of a new county with the county legislative body of the county in which they reside. The petition shall be signed by at least one-fourth of the qualified electors as shown by the registration list of the last preceding general election, residing in that portion of the county to be created into a new county, and by not less than one-fourth of the qualified electors residing in the remaining portion of the county. The petition shall be presented on or before the first Monday in May of any year, and shall propose the name and define the boundaries of the new county. The county legislative body shall cause the proposition to be submitted to the legal voters residing in the county at a special election to be held according to the dates established in Section 20A-1-204, first causing 30 days' notice of the election to be given in the manner provided by law for giving notice of general elections. The election shall be held, the result canvassed, and returns made under the provisions of the general election laws. The form of ballot to be used at such election shall be:

For the creation of (supplying the name proposed) county.

Against the creation of (supplying the name proposed) county.

Amended by Chapter 297, 2011 General Session

17-3-3 Certification of returns -- Governor's proclamation of creation of new county -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

- (1) If it appears that any proposition submitted to the electors as provided in this chapter has been carried in the affirmative by a majority vote of the qualified electors residing in that portion of the county proposed as a new county, and also by a majority vote of the qualified electors residing in the remaining portion of that county:
 - (a) the lieutenant governor, upon receiving the certified report under Section 20A-4-304, shall certify the result to the governor; and
 - (b) upon receiving the results from the lieutenant governor under Subsection (1)(a), the governor shall issue a proclamation, stating:
 - (i) the result of the vote in each division of the county;
 - (ii) the name and boundaries of the new county;
 - (iii) the boundaries of the original county as changed by the creation of the new county;
 - (iv) that the creation of the new county will take effect on the first Monday in January following the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;
 - (v) the name proposed in the petition as the name of the new county; and
 - (vi) the judicial district to which the new county belongs.
- (2) The legislative body of the county from which the greatest portion of the new county was taken shall:
 - (a) within 30 days after the issuance of the governor's proclamation under Subsection (1), send to the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

- (b) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the new county:
 - (i) the original notice of an impending boundary action;
 - (ii) the original certificate of creation;
 - (iii) the original approved final local entity plat; and
 - (iv) a certified copy of the governor's proclamation under Subsection (1).
- (3)
 - (a) The new county that is the subject of the lieutenant governor's certificate of creation under Section 67-1a-6.5 is a county of the state from and after 12 noon of the first Monday in January following the issuance of the lieutenant governor's certificate of creation.
 - (b)
 - (i) The effective date of the creation of a new county for purposes of assessing property within the county is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (3)(b) are recorded in the office of the recorder of the new county, the new county may not:
 - (A) levy or collect a property tax on property in the county;
 - (B) levy or collect an assessment on property in the county; or
 - (C) charge or collect a fee for service provided to property within the county.

Amended by Chapter 350, 2009 General Session

17-3-4 County seat, selection by election -- First officers -- Election.

Whenever a new county shall have been created under the provisions of this chapter, the county legislative body of the county from which territory has been taken to create such new county shall provide for an election to select a county seat therefor and to elect officers for the new county; provided, that whenever the petitions provided for in this chapter shall be presented to any county legislative body during a year when no general election is held they shall call a special election to select a county seat and county officers for such new county, such election to be held on the first Tuesday after the first Monday of November following and to be conducted under the laws providing for general elections. The city or town receiving the largest number of votes therefor shall be the county seat of the new county.

Amended by Chapter 227, 1993 General Session

17-3-5 Records to be transmitted -- Expenses for transcribing and transfer.

Whenever a new county shall have been created under the provisions of this chapter, the county executive of the county from which the new county has been taken shall furnish to the respective officers of the new county, in form and on suitable paper for binding into permanent records, certified copies of all such records or parts of such records and books as pertain to or affect the title of real or personal property in such new county; such copies to be complete up to 12 o'clock noon of the first Monday in January following the election for the creation of such new county; provided, that original records, books, maps or plats, whether filed or recorded, or filed papers which exclusively relate to or affect the title to land in such new county or which affect personal property owned by residents of such new county, as shown by the records pertaining thereto, shall be transferred to the custody of the proper officer of the new county, who shall give his receipt therefor; and where any record of any county from which such new county is taken has been compiled or arranged in such manner that it may be divided by segregating such instruments therein or pages thereof as to relate to or affect exclusively the title to lands in such new county or

personal property owned by residents thereof, such record shall be so divided, and the separate parts of such divided or segregated records shall be the property of the counties to which they relate.

The records of all corporations whose principal place of business is situated in the new county, unless recorded in such a manner that the original record pertaining to any such corporation may, as herein provided, be delivered over to the new county, shall be copied and certified, and such certified copy of copies, together with all original documents, files and papers relating to such corporations shall be transmitted to the new county.

All recorded official bonds of officers within the new county in force at the time it is created, unless recorded in such manner that the original record thereof may be transferred, shall be copied, certified and transmitted to the new county, and all bonds of local officers within the new county which are required by law to be filed only shall be transferred to the new county.

All official registers, books, papers and files of every description relating to or affecting elections, both general and local, which shall have been held in any district, precinct or other subdivision wholly within such new county, and certified copies of the last election proceedings had in any districts which are partly in the new county and partly in the old county shall be transmitted to the new county.

All records, maps, plats, files and papers relating to or affecting the creation, regulation and operation of irrigation, drainage and mosquito abatement districts which are wholly within the new county, and certified copies of such records, maps, plats, files and papers relating to and affecting the creation, regulation and operation of irrigation, drainage and mosquito abatement districts which are partly in the new and partly in the old county shall be transmitted to the new county.

All expenses lawfully incurred for transcribing and for the transfer of records provided for in this section shall be paid out of the general funds of the new county, and the expenses of any special election provided for in this chapter shall be paid one-half out of the general funds of the county from which territory is taken and one-half out of the general funds of the new county.

Amended by Chapter 227, 1993 General Session

17-3-6 Effect on precincts and school and other districts -- Indebtedness.

All precincts, school districts, road districts, and election districts, as they existed prior to the creation of such new county, shall continue and become precincts, school districts, road districts, and election districts of such new county, and the respective officers thereof shall hold office until the expiration of the several terms for which they were elected or appointed; provided, that wherever pursuant to the provisions of this chapter any precinct, school district, road district, or election district shall be divided the same shall be by reason thereof disorganized, and the property and territory embraced therein shall be subject to the action of the county legislative body of the respective counties as to reorganization thereof or adding the same to other like subdivisions already organized; provided further, that any bonded or other indebtedness of any such school district so divided shall attach to and become the obligation of the district that shall be created out of the territory that shall retain the buildings and other property of the original district or to the district to which the same may be added; and all bonded or other indebtedness of the county from which territory is taken shall attach to and become the obligation of such county.

Amended by Chapter 227, 1993 General Session

17-3-7 Pending civil and criminal actions.

All civil and criminal actions which shall be pending in the territory embraced in such new county shall be prosecuted to judgment and execution therein, and all actions pending in the district court in any county shall be prosecuted to judgment and execution in the county in which the same are pending, subject to change of venue as provided by law.

No Change Since 1953

17-3-8 Prior offenses.

An offense, for which prosecution has not commenced, that was committed within the boundaries of a new county before the new county was created, may be prosecuted to judgment and execution in the new county.

Amended by Chapter 297, 2011 General Session

17-3-9 Division of taxes.

Whenever a new county shall be created under the provisions of this chapter and the officers thereof shall have duly qualified the county treasurer of the county from which territory has been taken to create such new county shall furnish to the county treasurer of such new county a certified list of all taxes collected by him for the preceding year upon the property located within such portion of his county as has become a part of such new county, together with the entire amount of such county, district school or other special taxes by him collected for such preceding year, less the pro rata cost of assessing and collecting the same and the entire cost of making said certified lists.

No Change Since 1953