

**PROCESS FOR CREATION OF NEW SCHOOL
DISTRICTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David N. Cox

This act modifies provisions related to school districts to provide a process for creating new school districts. The act provides for the transfer of school property to the new school district, a tax on property within the new school district to pay for the new district's proportionate share of the existing district's debt, and for the election of new school board members. The act takes effect July 1, 2003.

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

ENACTS:

53A-2-117, Utah Code Annotated 1953

53A-2-118, Utah Code Annotated 1953

53A-2-119, Utah Code Annotated 1953

53A-2-120, Utah Code Annotated 1953

53A-2-121, Utah Code Annotated 1953

53A-2-122, Utah Code Annotated 1953

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

Section 1. Section **53A-2-117** is enacted to read:

53A-2-117. Definitions.

As used in Sections 53A-2-117 through 53A-2-121:

(1) "Existing district" means a school district from which a new district is created.

(2) "New district" means a school district created under Section 53A-2-118.

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

53A-2-118. Creation of new school district by county legislative body -- Initiation of process -- Procedures to be followed.

(1) A county legislative body may create a new school district from an existing school district within the geographical boundaries of the county.

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

(i) through a citizens' initiative petition; or

(ii) at the request of the board of the existing district or districts to be affected by the creation of the new district.

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

(c) The process may only be initiated once during any four-year period.

(d) A new district may not be formed if the student population of the proposed new district is less than 5,000 or the existing district's student population would be less than 5,000 because of the creation of the new school district.

(e) If a county legislative body receives a request or petition to create a new district on or before December 1:

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

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

(iii) if the county legislative body approves a proposal to create a new district, the proposal shall be submitted to the county clerk to be voted on by the electors of the existing district at the regular general or municipal general election held in November.

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

(b) The advisory committee shall:

(i) seek input from:

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

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

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

(D) the State Board of Education; and

(E) other interested parties;

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

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

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

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

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

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

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

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

(c) The proposal is approved if a majority of the members of the county legislative body votes in favor of the proposal.

(d) If the proposal is approved, the county legislative body shall submit the proposal to the county clerk to be voted on:

(i) by the electors of the existing school district;

(ii) in accordance with Title 20A, Election Code; and

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

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and the remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) (i) The county legislative body shall, within 45 days of the creation of the new school

district, file a written notice of the action with the State Tax Commission.

(ii) The notice shall be accompanied by a map showing the boundaries of the affected school districts, prepared and certified by a local surveyor.

(5) If a proposal to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

Section 3. Section **53A-2-119** is enacted to read:

53A-2-119. Reapportionment -- Local school board membership.

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

(2) (a) Except as provided in Subsection (2)(b), school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local Boards of Education.

(b) (i) If, as a result of a reapportionment conducted following the creation of a new school district, a local school board district is created in which no board member whose term extends beyond reapportionment resides, the first board member for the local school board district shall be elected at the next regular general election or municipal general election, whichever occurs first, after the election at which the creation of the new school district is approved.

(ii) (A) The initial term of office of a board member elected under Subsection (2)(b)(i) shall be three years, except as provided in Subsection (2)(b)(ii)(B).

(B) If more than one position on a local school board needs to be filled pursuant to Subsection (2)(b)(i), the initial term of the board members elected shall be staggered. The county legislative body shall determine by lot which of the reapportioned local school board districts will elect members to three-year terms and which will elect members to one-year terms.

Section 4. Section **53A-2-120** is enacted to read:

53A-2-120. Transfer of school property to new school district.

(1) (a) On the July 1 following the school board elections for the new and existing districts as provided in Section 53A-1-119, the board of the existing district shall convey and

deliver to the board of the new district all school property which the new district is entitled to receive.

(b) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

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

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

(4) The intangible property of the existing school district shall be prorated between it and the new district on the same basis used to determine the new district's proportionate share of the existing district's indebtedness under Section 53A-2-121.

Section 5. Section **53A-2-121** is enacted to read:

53A-2-121. Indebtedness on property within new school district.

(1) (a) The boards of the existing and new districts shall determine the portion of the existing district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the existing district's outstanding indebtedness.

(b) The proportionate share of the existing district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the existing district in the year immediately preceding the date the new district was created.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) The board of the new district shall levy a tax on property within the new district sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the existing district.

(3) The boards of the existing and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the existing district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

Section 6. Section **53A-2-122** is enacted to read:

53A-2-122. Rights of employees transferring to a new district.

An employee of a school district from which a new district is created who becomes an employee of the new district shall receive the same considerations as are provided to transferred employees by Section 53A-2-116 and shall retain the same status as a career or provisional employee with accrued seniority.

Section 7. **Effective date.**

This act takes effect on July 1, 2003.