

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SCHOOL DISTRICT AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: David N. Cox

LONG TITLE

General Description:

This bill modifies procedures for the creation of a new school district.

Highlighted Provisions:

This bill:

- ▶ imposes requirements for the filing and processing of a petition to create a new school district;
- ▶ removes the requirement that a county legislative body hold a public hearing on and approve the creation of a new school district before the question of whether to create a new school district is voted on by the electors of the existing school district; and
- ▶ provides that when a new school district is created:
 - employees whose home base is a school transferred to the new district shall become employees of the new school district;
 - employees transferred to or hired by the new school district from the school district from which the new district is created within one year shall retain certain rights and privileges; and
 - employees transferred to a new district who are rehired by their former district within one year shall retain certain rights and privileges.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53A-2-118**, as enacted by Chapter 234, Laws of Utah 2003

32 **53A-2-122**, as enacted by Chapter 234, Laws of Utah 2003



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

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

36 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**
37 **to be followed.**

38 (1) A [~~county legislative body may create a~~] new school district may be created from
39 an existing school district [~~within the geographical boundaries of the county~~].

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

41 [~~(i) through a citizens' initiative petition; or~~]

42 [~~(ii) (i) at the request of the board of the existing district or districts to be affected by~~
43 ~~the creation of the new district[-]; or~~

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

48 (b) A request of a school district board to create a new school district shall be
49 submitted to the county legislative body of the county within which the existing school district
50 is located.

51 (c) Each petition to create a new school district shall:

52 (i) be filed with the county clerk;

53 (ii) indicate the typed or printed name and current residence address of each registered
54 voter signing the petition;

55 (iii) describe the area of the proposed new school district; and

56 (iv) designate up to five signers of the petition as sponsors, one of whom shall be
57 designated as the contact sponsor, with the mailing address and telephone number of each.

58 (d) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's

59 signature at any time before the filing of the petition by filing a written withdrawal or
60 reinstatement with the county clerk.

61 ~~[(e)]~~ (e) The process may only be initiated once during any four-year period.

62 ~~[(f)]~~ (f) A new district may not be formed if the student population of the proposed
63 new district is less than 5,000 or the existing district's student population would be less than
64 5,000 because of the creation of the new school district.

65 (g) Within 45 days after the filing of a petition, the county clerk shall:

66 (i) determine whether the petition complies with Subsections (2)(c), (e), and (f); and

67 (ii) (A) if the county clerk determines that the petition complies with the applicable
68 requirements:

69 (I) certify the petition and deliver the certified petition to the county legislative body;
70 and

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

72 (B) if the county clerk determines that the petition fails to comply with any of the
73 applicable requirements, reject the petition and notify the contact sponsor in writing of the
74 rejection and the reasons for the rejection.

75 (h) If the county clerk fails to certify or reject a petition within 45 days after its filing,
76 the petition shall be considered to be certified.

77 (i) (i) If the county clerk rejects a petition, the petition may be amended to correct the
78 deficiencies for which it was rejected and then refiled.

79 (ii) Subsection (2)(e) does not apply to a petition that is amended and refiled after
80 having been rejected by the county clerk.

81 ~~[(e)]~~ (j) If a county legislative body receives a request from a school district board or a
82 petition certified by the county clerk to create a new district on or before December 1:

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

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

87 ~~[(iii) if the county legislative body approves a proposal to create a new district, the~~
88 ~~proposal shall be submitted to the county clerk to]~~

89 (iii) the question of whether the new school district should be created shall be voted on

90 by the electors of the existing district at the regular general or municipal general election held
91 in November.

92 (3) (a) The county legislative body shall appoint an ad hoc advisory committee to
93 review and make ~~[recommendations on]~~ an impartial analysis of a request or petition for the
94 creation of a new school district submitted under Subsection (2)(a).

95 (b) The advisory committee shall:

96 (i) seek input from:

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

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

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

101 (D) the State Board of Education; and

102 (E) other interested parties;

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

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

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

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

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

109 (iii) make a report to the county legislative body in a public meeting on the committee's
110 activities, together with ~~[a recommendation on whether]~~ an impartial analysis of the proposal to
111 create a new school district.

112 (4) (a) The county legislative body shall ~~[provide for a 45-day public comment period~~
113 ~~on the report and recommendation to begin on the day the report is given under Subsection~~
114 ~~(3)(b)(iii). (b) Within 14 days after the end of the comment period, the county legislative body~~
115 ~~shall vote on the creation of the proposed new school district. (c) The proposal is approved if a~~
116 ~~majority of the members of the county legislative body votes in favor of the proposal. (d) If the~~
117 ~~proposal is approved, the county legislative body shall]~~ submit the ~~[proposal]~~ question of
118 whether a new school district should be created to the county clerk to be voted on:

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

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

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

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

126 ~~[(f)]~~ (c) (i) The county legislative body shall, within 45 days of the creation of the new
127 school district, file a written notice of the action with the State Tax Commission.

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

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

133 Section 2. Section **53A-2-122** is amended to read:

134 **53A-2-122. Employees of a new district.**

135 ~~[Am]~~ (1) Upon the creation of a new district:

136 (a) an employee of an existing district who is employed at a school that is transferred to
137 a new district shall become an employee of the new district; and

138 (b) the school board of the new district shall have discretion in the hiring of all other
139 staff.

140 (2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new
141 district is created who becomes an employee of the new district shall receive the same
142 considerations as are provided to transferred employees by Section 53A-2-116 and shall retain
143 the same status as a career or provisional employee with accrued seniority.

144 (b) Subsection (2)(a) applies to:

145 (i) employees of an existing district who are transferred to a new district pursuant to
146 Subsection (1)(a); and

147 (ii) employees of a school district from which a new district is created who are hired by
148 the new district within one year of the date of the creation of the new district.

149 (3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and
150 is rehired by the existing district within one year of the date of the creation of the new district
151 shall, when rehired by the existing district, retain the same status as a career or provisional

152 employee with accrued seniority.

Legislative Review Note
as of 12-28-04 2:02 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0063

School District Amendments

22-Jan-05

11:15 AM

State Impact

No fiscal impact

Individual and Business Impact

No fiscal impact

Office of the Legislative Fiscal Analyst