

**Representative David N. Cox** proposes the following substitute bill:

**SCHOOL DISTRICT BOUNDARIES**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David N. Cox**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ allows the governing body of certain cities to establish a school district with boundaries contiguous with city boundaries;
- ▶ imposes requirements for the filing and processing of a petition or request to create a new school district;
- ▶ requires the county legislative body to make district boundary changes when a request is made by certain cities;
- ▶ provides for transfer of property and indebtedness of affected districts consistent with procedures for other types of school district boundary changes;
- ▶ provides for certain treatment of transferred employees of affected districts; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53A-2-104**, as last amended by Chapter 294, Laws of Utah 1998

29 **53A-2-105**, as last amended by Chapter 105, Laws of Utah 2005

30 **53A-2-118**, as last amended by Chapter 233, Laws of Utah 2005

31 **53A-2-122**, as enacted by Chapter 234, Laws of Utah 2003

32 ENACTS:

33 **53A-2-118.1**, Utah Code Annotated 1953



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

36 Section 1. Section **53A-2-104** is amended to read:

37 **53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board**  
38 **petition -- Elector petition -- Transfer election.**

39 (1) Part of a school district may be transferred to another district in one of the  
40 following ways:

41 (a) presentation to the county legislative body of each of the affected counties of a  
42 resolution requesting the transfer, approved by at least four-fifths of the members of the local  
43 board of education of each affected school district;

44 (b) presentation to the county legislative body of each affected county of a petition  
45 requesting that the electors vote on the transfer, signed by a majority of the members of the  
46 local school board of each affected school district; ~~or~~

47 (c) presentation to the county legislative body of each affected county of a petition  
48 requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each  
49 of the affected school districts within that county~~[-]; or~~

50 (d) action by a county legislative body pursuant to a city request under Section  
51 53A-2-118.1.

52 (2) (a) If an annexation of property by a city would result in its residents being served  
53 by more than one school district, then the presidents of the affected local school boards shall  
54 meet within 60 days prior to the effective date of the annexation to determine whether it would  
55 be advisable to adjust school district boundaries to permit all residents of the expanded city to  
56 be served by a single school district.

57 (b) Upon conclusion of the meeting, the local school board presidents shall prepare a  
58 recommendation for presentation to their respective boards as soon as reasonably possible.

59 (c) The boards may then initiate realignment proceedings under Subsection (1)(a) or  
60 (b).

61 (d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board  
62 may initiate the following procedures by majority vote within 60 days of the vote rejecting  
63 realignment:

64 (i) (A) within 30 days after a vote to initiate these procedures, each local board shall  
65 appoint one member to a boundary review committee; or

66 (B) if the local board becomes deadlocked in selecting the appointee under Subsection  
67 (d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review  
68 committee.

69 (ii) The two local board-appointed members of the committee shall meet and appoint a  
70 third member of the committee.

71 (iii) If the two local board-appointed members are unable to agree on the appointment  
72 of a third member within 30 days after both are appointed, the State Superintendent of Public  
73 Instruction shall appoint the third member.

74 (iv) The committee shall meet as necessary to prepare recommendations concerning  
75 resolution of the realignment issue, and shall submit the recommendations to the affected local  
76 boards within six months after the appointment of the third member of the committee.

77 (v) If a majority of the members of each local board accepts the recommendation of the  
78 committee, or accepts the recommendation after amendment by the boards, then the accepted  
79 recommendation shall be implemented.

80 (vi) If the committee fails to submit its recommendation within the time allotted, or if  
81 one local board rejects the recommendation, the affected boards may agree to extend the time  
82 for the committee to prepare an acceptable recommendation or either board may request the  
83 State Board of Education to resolve the question.

84 (vii) If the committee has submitted a recommendation which the state board finds to  
85 be reasonably supported by the evidence, the state board shall adopt the committee's  
86 recommendation.

87 (viii) The decision of the state board is final.

88 (3) (a) The electors of each affected district shall vote on the transfer requested under  
89 Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general  
90 election.

91 (b) The election shall be conducted and the returns canvassed as provided by election  
92 law.

93 (c) A transfer is effected only if a majority of votes cast by the electors in both the  
94 proposed transferor district and in the proposed transferee district are in favor of the transfer.

95 Section 2. Section **53A-2-105** is amended to read:

96 **53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

97 (1) If a transfer of a portion of one school district to another school district is approved  
98 under Section 53A-2-104 or 53A-2-118.1, the state superintendent and the superintendents and  
99 presidents of the boards of education of each of the affected school districts shall determine the  
100 basis for a transfer of all school property reasonably and fairly allocable to that portion being  
101 transferred.

102 (2) (a) Title to property transferred vests in the transferee board of education.

103 (b) The transfer of a school building that is in operation at the time of determination  
104 shall be made at the close of a fiscal year.

105 (c) The transfer of all other school property shall be made five days after approval of  
106 the transfer of territory under Section 53A-2-104.

107 (3) (a) The individuals referred to in Subsection (1) shall determine the portion of  
108 bonded indebtedness and other indebtedness of the transferor board for which the transferred  
109 property remains subject to the levy of taxes to pay a proportionate share of the outstanding  
110 indebtedness of the transferor board.

111 (b) This is done by:

112 (i) determining the amount of the outstanding bonded indebtedness and other  
113 indebtedness of the transferor board of education;

114 (ii) determining the total taxable value of the property of the transferor district and the  
115 taxable value of the property to be transferred; and

116 (iii) calculating the portion of the indebtedness of the transferor board for which the  
117 transferred portion retains liability.

118 (4) (a) The agreement reflecting these determinations takes effect upon being filed with

119 the State Board of Education.

120 (b) The transferred property remains subject to the levy of taxes to pay a proportionate  
121 share of the outstanding indebtedness of the transferor school board.

122 (c) The transferee school board may assume the obligation to pay the proportionate  
123 share of the transferor school board's indebtedness that has been determined under Subsection  
124 (3) to be the obligation of the transferred portion by the approval of a resolution by a majority  
125 of the qualified electors of the transferee school district at an election called and held for that  
126 purpose under Title 11, Chapter 14, Local Government Bonding Act.

127 (5) If the transferee school district assumes the obligation to pay this proportionate  
128 share of the transferor school board's indebtedness, the transferee school board shall levy a tax  
129 in the whole of the transferee district, including the transferred portion, sufficient to pay the  
130 assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator  
131 of the transferor board.

132 (6) If the transferee school board does not assume this obligation, the transferee school  
133 board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the  
134 indebtedness determined under this section, and shall turn over the proceeds of the tax to the  
135 business administrator of the transferor board.

136 (7) For the purposes of school districts affected by repealed laws governing the  
137 annexation of an unincorporated area of a school district by a city which included what was  
138 formerly known as a city school district, transitions of unincorporated areas and property from  
139 the transferor district to the transferee district in progress on the effective date of this act shall  
140 revert to the boundaries and ownership prior to the initiation of annexation and may then  
141 proceed under this section and Section 53A-2-104.

142 Section 3. Section **53A-2-118** is amended to read:

143 **53A-2-118. Creation of new school district by county legislative body -- Initiation**  
144 **of process -- Procedures to be followed.**

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

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

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

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

150 creation of the new district[-]; or

151 (iii) at the request of a city within the boundaries of the school district ~~H~~→ or at the  
 151a request of interlocal agreement participants, ←~~H~~ pursuant to  
 152 Section 53A-2-118.1.

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

157 (ii) A request or petition submitted under Subsection (2)(a) shall:

158 (A) be filed with the county clerk;

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

161 (C) describe the proposed new school district; and

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

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

168 [~~e~~] (d) The process under Subsection (2)(a)(i) may only be initiated once during any  
 169 four-year period.

170 [~~t~~] (e) A new district may not be formed pursuant to Subsection (2)(a) if the student  
 171 population of the proposed new district is less than ~~H~~→ [5,000] 3,000 ←~~H~~ or the existing district's  
 171a student

172 population would be less than ~~H~~→ [5,000] 3,000 ←~~H~~ because of the creation of the new school  
 172a district.

173 (f) Within 45 days after the filing of a request or petition under Subsection (2)(a), the  
 174 county clerk shall:

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

177 (ii) (A) if the county clerk determines that the request or petition complies with the  
 178 applicable requirements;

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

181 (II) mail or deliver written notification of the certification to the contact sponsor; or  
182 (B) if the county clerk determines that the request or petition fails to comply with any  
183 of the applicable requirements, reject the request or petition and notify the contact sponsor in  
184 writing of the rejection and reasons for the rejection.

185 (g) If the county clerk fails to certify or reject a request or petition within 45 days after  
186 its filing, the petition shall be considered to be certified.

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

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

191 ~~[(e)]~~ (i) If a county legislative body receives a request from a school board under  
192 Subsection (2)(a)(ii) or a petition [to create a new district] under Subsection (2)(a)(i) which is  
193 certified by the county clerk on or before December 1:

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

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

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

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

204 (b) The advisory committee shall:

205 (i) seek input from:

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

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

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

210 (D) the State Board of Education; and

211 (E) other interested parties;

212 (ii) review data and gather information on at least:  
213 (A) the financial viability of the proposed new school district;  
214 (B) the proposal's financial impact on the existing school district;  
215 (C) the exact placement of school district boundaries; and  
216 (D) the positive and negative effects of creating a new school district and whether the  
217 positive effects outweigh the negative if a new school district were to be created; and  
218 (iii) make a report to the county legislative body in a public meeting on the committee's  
219 activities, together with a recommendation on whether to create a new school district.  
220 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):  
221 [~~(4)~~] (a) [~~The~~] the county legislative body shall provide for a 45-day public comment  
222 period on the report and recommendation to begin on the day the report is given under  
223 Subsection (3)(b)(iii).  
224 (b) Within 14 days after the end of the comment period, the county legislative body  
225 shall vote on the creation of the proposed new school district.  
226 (c) The proposal is approved if a majority of the members of the county legislative  
227 body votes in favor of the proposal.  
228 (d) If the proposal is approved, the county legislative body shall submit the proposal to  
229 the county clerk to be voted on:  
230 (i) by the electors of the existing school district;  
231 (ii) in accordance with Title 20A, Election Code; and  
232 (iii) at the next regular general election or municipal general election, whichever is  
233 first.  
234 (e) Creation of the new school district shall occur if a majority of the electors within  
235 both the proposed school district and the remaining school district voting on the proposal vote  
236 in favor of the creation of the new district.  
237 (f) The county legislative body shall provide notice of the action as required in Section  
238 53A-2-101.5.  
239 (5) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is  
240 approved by the electors, the existing district's documented costs to study and implement the  
241 proposal shall be reimbursed by the new district.  
242 Section 4. Section **53A-2-118.1** is enacted to read:



243 **53A-2-118.1. City option to create city school district.**

244 (1) A city of the first, second, ~~H→~~ [or] ~~←H~~ third ~~H→~~ , or fourth ~~←H~~ class, as defined  
244a under Section 10-2-301, may,

245 by majority vote of the ~~H→~~ [governing body] voters ~~←H~~ , elect to form a school district with  
245a boundaries

246 contiguous with that city's boundaries.

246a ~~H→~~ (2) (a) By majority vote of the [legislative body] voters, a city of any class, a town,  
246b or a county may, together with one or more other cities, towns, or the county, enter into an  
246c interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for  
246d the purpose of electing to form a new school district under this section.

246e (b) Interlocal agreement participants under Subsection (2)(a) may elect to form a new  
246f school district if:

246g (i) the combined population within new school district boundaries specified by  
246h interlocal agreement participants meets the minimum population threshold for a city of the  
246i fourth class;

246j (ii) the new school district boundaries are contiguous;

246k (iii) boundaries of the new school district include the entire boundaries of each  
246l participant city or town; and

246m (iv) boundaries do not cross county lines.

246n (c) (i) A county may only make an election under this Subsection (2) for the  
246o unincorporated areas of the county.

246p (ii) Boundaries of a new school district created under this section may include a portion  
246q of the unincorporated area of the county, including a portion of a township. ~~←H~~

247 ~~H→~~ [(2)] (3) ~~←H~~ If requested by the ~~H→~~ [governing] legislative ~~←H~~ body of a city under  
247a Subsection (1) ~~H→~~ or interlocal agreement participants under Subsection (2), ~~←H~~ and  
247b subject to the

248 requirements of Section 53A-2-118, a county legislative body shall adjust the boundaries of a  
249 school district to form a new school district, with boundaries contiguous to the city boundaries  
249a ~~H→~~ or interlocal agreement participant requested boundaries, as the case may be ~~←H~~ .

250 ~~H→~~ [(3)] (4) ~~←H~~ (a) Transfer of school district property and indebtedness to a newly  
250a created school

251 district shall be handled in accordance with Sections 53A-2-120 and 53A-2-121.

252 (b) Transferred employees shall be treated in accordance with Sections 53A-2-116 and  
253 53A-2-122.

254 Section 5. Section 53A-2-122 is amended to read:

255 **53A-2-122. Employees of a new district.**

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

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

259 (b) the school board of the new district shall:

260 (i) have discretion in the hiring of all other staff;

261 (ii) adopt the personnel policies and practices of the existing district, including salary  
262 schedules and benefits; and

263 (iii) enter into agreements with employees of the new district, or their representatives,  
264 that have the same terms as those in the negotiated agreements between the existing district and  
265 its employees.

266 (2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new  
267 district is created who becomes an employee of the new district shall ~~[receive the same~~  
268 ~~considerations as are provided to transferred employees by Section 53A-2-116 and shall]~~ retain  
269 the same status as a career or provisional employee with accrued seniority and accrued benefits.

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

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

273 (ii) employees of a school district from which a new district is created who are hired by

274 the new district within one year of the date of the creation of the new district.  
275 (3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and  
276 is rehired by the existing district within one year of the date of the creation of the new district  
277 shall, when rehired by the existing district, retain the same status as a career or provisional  
278 employee with accrued seniority and accrued benefits.

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**Fiscal Note**

School District Boundaries

08-Feb-06

**Bill Number HB0077S01**11:08 AM

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**State Impact**

State revenue to school districts is largely distributed on a per student basis. Provisions of this bill may result in the redistribution of state revenue among school districts. It is anticipated that any costs associated with the creation of a new school district, pursuant to the provisions of this bill, would be accommodated through current state or local revenue allocated for these functions.

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**Individual and Business Impact**

No fiscal impact.

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Office of the Legislative Fiscal Analyst