

**SCHOOL DISTRICT BOUNDARIES**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David N. Cox**

Senate Sponsor: Curtis S. Bramble

6	Cosponsors:	Gregory H. Hughes	Michael E. Noel
7	Bradley M. Daw	Bradley T. Johnson	Aaron Tilton
8	Glenn A. Donnelson	Rebecca D. Lockhart	David Ure
9	James A. Ferrin	Carol Spackman Moss	Peggy Wallace
10	Craig A. Frank		

---

---

**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 and counties to submit for voter approval a proposal to establish a new school district;
- ▶ 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 voters approve a new school district;
- ▶ 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

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53A-2-104**, as last amended by Chapter 294, Laws of Utah 1998

34 **53A-2-105**, as last amended by Chapter 105, Laws of Utah 2005

35 **53A-2-118**, as last amended by Chapter 233, Laws of Utah 2005

36 **53A-2-122**, as enacted by Chapter 234, Laws of Utah 2003

37 ENACTS:

38 **53A-2-118.1**, Utah Code Annotated 1953



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

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

42 **53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board**  
43 **petition -- Elector petition -- Transfer election.**

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

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

49 (b) presentation to the county legislative body of each affected county of a petition  
50 requesting that the electors vote on the transfer, signed by a majority of the members of the  
51 local school board of each affected school district; [or]

52 (c) presentation to the county legislative body of each affected county of a petition  
53 requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each  
54 of the affected school districts within that county[=]; or

55 (d) voter approval of a proposal pursuant to Section 53A-2-118.1.

56 (2) (a) If an annexation of property by a city would result in its residents being served  
57 by more than one school district, then the presidents of the affected local school boards shall  
58 meet within 60 days prior to the effective date of the annexation to determine whether it would

59 be advisable to adjust school district boundaries to permit all residents of the expanded city to  
60 be served by a single school district.

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

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

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

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

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

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

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

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

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

84 (vi) If the committee fails to submit its recommendation within the time allotted, or if  
85 one local board rejects the recommendation, the affected boards may agree to extend the time  
86 for the committee to prepare an acceptable recommendation or either board may request the

87 State Board of Education to resolve the question.

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

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

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

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

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

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

100 **53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

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

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

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

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

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

- 115           (b) This is done by:
- 116           (i) determining the amount of the outstanding bonded indebtedness and other  
117 indebtedness of the transferor board of education;
- 118           (ii) determining the total taxable value of the property of the transferor district and the  
119 taxable value of the property to be transferred; and
- 120           (iii) calculating the portion of the indebtedness of the transferor board for which the  
121 transferred portion retains liability.
- 122           (4) (a) The agreement reflecting these determinations takes effect upon being filed with  
123 the State Board of Education.
- 124           (b) The transferred property remains subject to the levy of taxes to pay a proportionate  
125 share of the outstanding indebtedness of the transferor school board.
- 126           (c) The transferee school board may assume the obligation to pay the proportionate  
127 share of the transferor school board's indebtedness that has been determined under Subsection  
128 (3) to be the obligation of the transferred portion by the approval of a resolution by a majority  
129 of the qualified electors of the transferee school district at an election called and held for that  
130 purpose under Title 11, Chapter 14, Local Government Bonding Act.
- 131           (5) If the transferee school district assumes the obligation to pay this proportionate  
132 share of the transferor school board's indebtedness, the transferee school board shall levy a tax  
133 in the whole of the transferee district, including the transferred portion, sufficient to pay the  
134 assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator  
135 of the transferor board.
- 136           (6) If the transferee school board does not assume this obligation, the transferee school  
137 board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the  
138 indebtedness determined under this section, and shall turn over the proceeds of the tax to the  
139 business administrator of the transferor board.
- 140           (7) For the purposes of school districts affected by repealed laws governing the  
141 annexation of an unincorporated area of a school district by a city which included what was  
142 formerly known as a city school district, transitions of unincorporated areas and property from

143 the transferor district to the transferee district in progress on the effective date of this act shall  
144 revert to the boundaries and ownership prior to the initiation of annexation and may then  
145 proceed under this section and Section 53A-2-104.

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

147 **53A-2-118. Creation of new school district by county legislative body -- Initiation**  
148 **of process -- Procedures to be followed.**

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

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

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

153 (ii) at the request of the board of the existing district or districts to be affected by the  
154 creation of the new district[-]; or

155 (iii) at the request of a city within the boundaries of the school district or at the request  
156 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

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

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

162 (A) be filed with the county clerk;

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

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

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

169 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,  
170 reinstate the signer's signature at any time before the filing of the petition by filing a written

171 withdrawal or reinstatement with the county clerk.

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

174 ~~[(d)]~~ (e) A new district may not be formed pursuant to Subsection (2)(a) if the student  
175 population of the proposed new district is less than ~~[5,000]~~ 3,000 or the existing district's  
176 student population would be less than ~~[5,000]~~ 3,000 because of the creation of the new school  
177 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

209 (b) The advisory committee shall:

210 (i) seek input from:

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

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

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

215 (D) the State Board of Education; and

216 (E) other interested parties;

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

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

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

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

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

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

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

226 ~~[(4)]~~ (a) ~~[The]~~ the county legislative body shall provide for a 45-day public comment



227 period on the report and recommendation to begin on the day the report is given under  
228 Subsection (3)(b)(iii).

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

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

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

235 (i) by the ~~[electors]~~ legal voters of the existing school district;

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

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

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

242 (f) The county legislative body shall provide notice of the action as required in Section  
243 53A-2-101.5.

244 ~~(5)~~ (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new  
245 district is approved by the electors, the existing district's documented costs to study and  
246 implement the proposal shall be reimbursed by the new district.

247 (5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection  
248 (2)(f) or (g), the county legislative body shall submit the proposal to the county clerk to be  
249 voted on:

250 (i) by the legal voters residing within the proposed new school district boundaries;

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

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

254 (b) Creation of the new school district shall occur if a majority of the legal voters

255 within the proposed new school district boundaries voting on the proposal vote in favor of the  
256 creation of the new district.

257 Section 4. Section **53A-2-118.1** is enacted to read:

258 **53A-2-118.1. Option for school district creation.**

259 (1) After conducting a feasibility study, a city of the first or second class, as defined  
260 under Section 10-2-301, may by majority vote of the legislative body, submit for voter approval  
261 a measure to create a new school district with boundaries contiguous with that city's  
262 boundaries, in accordance with Section 53A-2-118.

263 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,  
264 may, together with one or more other cities, towns, or the county enter into an interlocal  
265 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose  
266 of submitting for voter approval a measure to create a new school district.

267 (b) In accordance with Section 53A-2-118, interlocal agreement participants under  
268 Subsection (2)(a) may submit a proposal for voter approval if:

269 (i) the interlocal agreement participants conduct a feasibility study prior to submitting  
270 the proposal to the county;

271 (ii) the combined population within the proposed new school district boundaries meets  
272 the minimum population threshold for a city of the second class; and

273 (iii) the new school district boundaries:

274 (A) are contiguous;

275 (B) do not completely surround or otherwise completely geographically isolate a  
276 portion of an existing school district that is not part of the proposed new school district from  
277 the remaining part of the existing school district;

278 (C) include the entire boundaries of any participant city or town; and

279 (D) do not cross county lines.

280 (c) (i) A county may only participate in an interlocal agreement under this Subsection  
281 (2) for the unincorporated areas of the county.

282 (ii) Boundaries of a new school district created under this section may include a portion

283 of the unincorporated area of the county, including a portion of a township.

284 (3) If a proposal under this section is approved by voters:

285 (a) transfer of school district property and indebtedness to a newly created school  
286 district shall be handled in accordance with Sections 53A-2-120 and 53A-2-121;

287 (b) transferred employees shall be treated in accordance with Sections 53A-2-116 and  
288 53A-2-122; and

289 (c) within one year after creation of the new district, the superintendent of the  
290 previously existing district or districts affected and the superintendent of the new district shall  
291 meet, together with the Superintendent of Public Instruction, to determine if further boundary  
292 changes should be proposed in accordance with Section 53A-2-104 or Subsection  
293 53A-2-118(2).

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

295 **53A-2-122. Employees of a new district.**

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

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

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

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

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

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

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

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

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

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

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