

1 **SCHOOL DISTRICT BOUNDARIES**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David N. Cox**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies procedures for the creation of a new school district and requires
10 school district boundary changes or new district creation so that all districts have less
11 than a specified number of enrolled students.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ imposes requirements for the filing and processing of a petition to create a new
15 school district;
- 16 ▶ requires a county legislative body, beginning after the 2010 Census, to adjust school
17 district boundaries or create new school districts, subject to certain requirements, so
18 that no district exceeds 30,000 enrolled pupils;
- 19 ▶ provides for transfer of property and indebtedness of affected districts;
- 20 ▶ provides for certain treatment of transferred employees of affected districts;
- 21 ▶ permits the State Board of Education to recommend legislation addressing
22 implementation issues; and
- 23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53A-2-104**, as last amended by Chapter 294, Laws of Utah 1998

31 **53A-2-105**, as last amended by Chapter 105, Laws of Utah 2005

32 **53A-2-118**, as last amended by Chapter 233, Laws of Utah 2005

33 **53A-2-122**, as enacted by Chapter 234, Laws of Utah 2003

34 ENACTS:

35 **53A-2-118.1**, Utah Code Annotated 1953



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

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

39 **53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board**
40 **petition -- Elector petition -- Transfer election.**

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

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

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

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

52 (d) action by a county legislative body under Section 53A-2-118.1.

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

58 (b) Upon conclusion of the meeting, the local school board presidents shall prepare a

59 recommendation for presentation to their respective boards as soon as reasonably possible.

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

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

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

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

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

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

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

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

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

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

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

89 (3) (a) The electors of each affected district shall vote on the transfer requested under

90 Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general
91 election.

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

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

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

97 **53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

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

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

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

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

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

112 (b) This is done by:

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

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

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

119 (4) (a) The agreement reflecting these determinations takes effect upon being filed with
120 the State Board of Education.

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

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

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

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

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

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

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

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

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

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

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

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

156 (iii) pursuant to Section 53A-2-118.1.

157 (b) Each petition to create a new school district shall:

158 (i) be filed with the county clerk;

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

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

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

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

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

169 ~~[(d)]~~ (e) A new district may not be formed if the student population of the proposed
170 new district is less than 5,000 or the existing district's student population would be less than
171 5,000 because of the creation of the new school district.

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

173 (i) determine whether the petition complies with Subsections (2)(a), (b), (d) and (e);
174 and

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

177 (I) certify the petition and deliver the certified petition to the county legislative body;
178 and

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

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

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

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

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

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

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

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

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

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

202 (b) The advisory committee shall:

203 (i) seek input from:

204 (A) those requesting the creation of the new school district, if the request is made
205 under Subsection (2)(a)(i) or (2)(a)(ii);

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

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

209 (D) the State Board of Education; and

210 (E) other interested parties;

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

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

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

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

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

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

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

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

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

226 (d) ~~[H]~~ For a proposal submitted under Subsection (2)(a)(i) or (2)(a)(ii):

227 (i) if the proposal is approved by the county legislative body, the county legislative
228 body shall submit the proposal to the county clerk to be voted on:

229 ~~[(i)]~~ (A) by the electors of the existing school district;

230 ~~[(ii)]~~ (B) in accordance with Title 20A, Election Code; and

231 ~~[(iii)]~~ (C) at the next regular general election or municipal general election, whichever
232 is first~~[-]; and~~

233 ~~[(e)-Creation]~~ (ii) creation of the new school district shall occur if a majority of the
234 electors within both the proposed school district and the remaining school district voting on the
235 proposal vote in favor of the creation of the new district.

236 ~~[(f)]~~ (e) The county legislative body shall provide notice of the action as required in
237 Section 53A-2-101.5.

238 (5) If a proposal to create a new district under Subsection (2)(a)(i) or (2)(a)(ii) is
239 approved by the electors, the existing district's documented costs to study and implement the
240 proposal shall be reimbursed by the new district.

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

242 **53A-2-118.1. Mandatory boundary adjustment for school districts with**
243 **enrollment greater than 30,000.**

244 (1) Beginning with the 2010 Census, within one year after the United States Census

245 Bureau issues the national decennial census, a county legislative body shall:

246 (a) determine the number of students enrolled in each school district within the county;

247 and

248 (b) adjust boundaries of school districts located within the county, or create new school
249 districts within the county, so that no school district has more than 30,000 enrolled students.

250 (2) (a) Transfer of school district property and indebtedness to a newly 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 (3) The State Board of Education may recommend legislation addressing transition and
255 implementation issues.

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

257 **53A-2-122. Employees of a new district.**

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

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

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

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

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

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

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

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

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

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

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

Legislative Review Note
as of 12-19-05 3:08 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

State Impact

Following the 2010 Census, provisions of this bill require a county legislative body to adjust district boundaries, or create a new school district, so that no district exceeds 30,000 students. Since 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 the administrative functions 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.

Individual and Business Impact

No fiscal impact.