

1 **NEW SCHOOL DISTRICT CREATION**

2 **AMENDMENTS**

3 2007 FIRST SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: James A. Dunnigan**

6 Senate Sponsor: Michael G. Waddoups

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ lowers the population threshold for cities that are allowed to create a school district
- 14 matching city boundaries; and
- 15 ▶ modifies a provision relating to the allocation of school buildings and associated
- 16 property.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an immediate effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **53A-2-118.1**, as last amended by Laws of Utah 2007, Chapter 215

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

26 Section 1. Section **53A-2-118.1** is amended to read:

27 **53A-2-118.1. Option for school district creation.**

28 (1) After conducting a feasibility study, a city [~~of the first or second class, as defined~~
29 ~~under Section 10-2-301~~] with a population of at least 50,000, as determined by the lieutenant

30 governor using the process described in Subsection 10-2-302(2), may by majority vote of the
31 legislative body, submit for voter approval a measure to create a new school district with
32 boundaries contiguous with that city's boundaries, in accordance with Section 53A-2-118.

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

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

39 (A) the interlocal agreement participants conduct a feasibility study prior to submitting
40 the proposal to the county;

41 (B) the combined population within the proposed new school district boundaries meets
42 the minimum population threshold for a city of the second class; and

43 (C) the new school district boundaries:

44 (I) are contiguous;

45 (II) do not completely surround or otherwise completely geographically isolate a
46 portion of an existing school district that is not part of the proposed new school district from
47 the remaining part of the existing school district, except as provided in Subsection (2)(d)(iii);

48 (III) include the entire boundaries of each participant city or town, except as provided
49 in Subsection (2)(d)(ii); and

50 (IV) subject to Subsection (2)(b)(ii), do not cross county lines.

51 (ii) For purposes of Subsection (2)(b)(i)(C)(IV) and Subsection 53A-2-118(1), a
52 municipality located in more than one county is considered to be entirely within the same county
53 as other participants in an interlocal agreement under Subsection (2)(a) if more of the
54 municipality's land area and population is located in that same county than outside the county.

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

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

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

59 (d) (i) As used in this Subsection (2)(d):

60 (A) "Isolated area" means an area that:

61 (I) is entirely within the boundaries of a municipality that, except for that area, is
62 entirely within a school district different than the school district in which the area is located; and

63 (II) would, because of the creation of a new school district from the existing district in
64 which the area is located, become completely geographically isolated.

65 (B) "Municipality's school district" means the school district that includes all of the
66 municipality in which the isolated area is located except the isolated area.

67 (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in
68 an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area
69 within the municipality's boundaries if the portion of the municipality proposed to be included in
70 the new school district would, if not included, become an isolated area upon the creation of the
71 new school district.

72 (iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school
73 district may be submitted for voter approval pursuant to an interlocal agreement under
74 Subsection (2)(a), even though the new school district boundaries would create an isolated area,
75 if:

76 (I) the potential isolated area is contiguous to one or more of the interlocal agreement
77 participants;

78 (II) the interlocal participants submit a written request to the municipality in which the
79 potential isolated area is located, requesting the municipality to enter into an interlocal
80 agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to
81 create a new school district that includes the potential isolated area; and

82 (III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the
83 municipality has not entered into an interlocal agreement as requested in the request.

84 (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold
85 one or more public hearings to allow input from the public and affected school districts

86 regarding whether or not the municipality should enter into an interlocal agreement with respect
87 to the potential isolated area.

88 (C) (I) This Subsection (2)(d)(iii)(C) applies if:

89 (Aa) a new school district is created under this section after a measure is submitted to
90 voters based on the authority of Subsection (2)(d)(iii)(A); and

91 (Bb) the creation of the new school district results in an isolated area.

92 (II) The isolated area shall, on July 1 of the second calendar year following the election
93 at which voters approve the creation of a new school district, become part of the municipality's
94 school district.

95 (III) Unless the isolated area is the only remaining part of the existing district, the
96 process described in Subsection (4) shall be modified to:

97 (Aa) include a third transition team, appointed by the local school board of the
98 municipality's school district, to represent that school district;

99 (Bb) require allocation of the existing district's property among the new district, the
100 remaining district, and the municipality's school district;

101 (Cc) require each of the three transition teams to appoint one member to the
102 three-member arbitration panel, if an arbitration panel is established; and

103 (Dd) require the municipality's school district to bear 1/3 of the costs of arbitration.

104 (IV) The existing district shall continue to provide educational services to the isolated
105 area until July 1 of the second calendar year following the election at which voters approve the
106 creation of a new school district.

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

108 (i) an election shall be held on the June special election date, as provided in Section
109 20A-1-204, in the year following the election at which voters approved the creation of a new
110 school district, to elect:

111 (A) all members to the board of the new school district; and

112 (B) all members to the board of the remaining district;

113 (ii) school district property shall be divided between the existing school district and the

114 new school district as provided in Subsection (4);

115 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
116 53A-2-122; and

117 (iv) within one year after the new district begins providing educational services, the
118 superintendent of each remaining district affected and the superintendent of the new district
119 shall meet, together with the Superintendent of Public Instruction, to determine if further
120 boundary changes should be proposed in accordance with Section 53A-2-104 or Subsection
121 53A-2-118(2).

122 (b) Each member elected to a school district board of a new district and remaining
123 district at an election under Subsection (3)(a)(i) shall take office on July 15 immediately
124 following the election.

125 (c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school
126 district board of the new district and remaining district who are elected at an election under
127 Subsection (3)(a)(i) shall be staggered and adjusted by the county legislative body so that:

128 (A) the school district board members' successors are elected at a future regular general
129 election; and

130 (B) the terms of their successors coincide with the schedule of terms for school district
131 board members established in Section 20A-14-202.

132 (ii) (A) The term of a member elected to a school district board at an election under
133 Subsection (3)(a)(i) may not be less than 17 months.

134 (B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a
135 member elected to a school district board at an election under Subsection (3)(a)(i) held in an
136 even-numbered year may exceed four years but may not exceed five years.

137 (d) (i) The term of each member of the school district board of the existing district
138 terminates on July 15 of the second year after the election at which voters approve the creation
139 of a new district, regardless of when the term would otherwise have terminated.

140 (ii) Notwithstanding the election of a board for the new district and a board for the
141 remaining district under Subsection (3)(a)(i), the board of the existing district shall continue,

142 until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority
143 as a board to the extent necessary to continue to provide educational services to the entire
144 existing district as though the new district had not been created.

145 (iii) A person may simultaneously serve as a member of the board of an existing district
146 and a member of the board of:

147 (A) a new district; or

148 (B) a remaining district.

149 (4) (a) Within 30 days after the canvass of an election at which voters approve the
150 creation of a new school district under this section:

151 (i) a transition team to represent the remaining district shall be appointed by the
152 members of the existing district board who reside within the area of the remaining district, in
153 consultation with:

154 (A) the legislative bodies of all municipalities in the area of the remaining district; and

155 (B) the legislative body of the county in which the remaining district is located, if the
156 remaining district includes one or more unincorporated areas of the county; and

157 (ii) another transition team to represent the new district shall be appointed by:

158 (A) for a new district located entirely within the boundaries of a single city, the
159 legislative body of that city; or

160 (B) for each other new district, the legislative bodies of all interlocal agreement
161 participants.

162 (b) The local board of the existing school district shall:

163 (i) within 30 days after the canvass of an election at which voters approve the creation
164 of a new school district under this section, prepare an inventory of the existing district's assets
165 and liabilities; and

166 (ii) within 45 days after the canvass, deliver a copy of the inventory to each of the
167 transition teams.

168 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to
169 Subsection (4)(c)(iii), determine the allocation of the existing district's property between the

170 remaining district and the new district in accordance with Subsection (4)(c)(ii).

171 (B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A)
172 before July 1 of the year following the election at which voters approve the creation of a new
173 district, unless that deadline is extended by the mutual agreement of:

174 (I) the school district board of the remaining district; and

175 (II) (Aa) the legislative body of the city in which the new district is located, for a new
176 district located entirely within a single city; or

177 (Bb) the legislative bodies of all interlocal agreement participants, for each other new
178 district.

179 (ii) Subject to Subsection (4)(c)(iii), all property of the existing district, both tangible
180 and intangible, real and personal, shall be allocated between the existing district and the new
181 district in a way that is fair and equitable to both the existing district and the new district, taking
182 into account:

183 (A) the relative student populations between the existing district and new district;

184 (B) the relative assessed value of taxable property between the existing district and the
185 new district;

186 (C) the historical amount of property used to deliver educational services to students in
187 the existing district and the new district; and

188 (D) any other factors that the transition teams consider relevant in dividing the property
189 in a fair and equitable manner.

190 (iii) (A) The transition teams shall allocate each school [~~buildings~~] building and
191 associated property used primarily to provide educational services to local residents and not
192 serving district-wide purposes to the school district [~~in which the buildings are geographically~~
193 ~~located after the creation of the new district~~] that would best serve the existing student
194 population of that school building and associated property.

195 (B) Except as provided in Subsection (4)(c)(iii)(A), nothing in this Subsection (4)(c)
196 may be construed to limit the ability of the transition teams to:

197 (I) provide that an existing district's property be shared by a remaining district and new

198 district;

199 (II) determine, by mutual agreement, that the value of the school buildings and
200 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration
201 in the asset allocation process under this Subsection (4)(c); or

202 (III) provide for any other arrangement with respect to existing district property that is
203 beneficial to and in the best interests of the remaining district and new district.

204 (d) (i) Each disagreement between the transition teams about the proper allocation of
205 property between the districts shall be resolved by binding arbitration to a three-member
206 arbitration panel.

207 (ii) Each transition team shall appoint one member to an arbitration panel under this
208 Subsection (4)(d), and those two members shall appoint a third member.

209 (iii) The costs of arbitration shall initially be borne entirely by the existing district, but
210 the new district shall reimburse the existing district half of those costs within one year after the
211 new district begins providing educational services.

212 (e) Each decision of the transition teams and of the arbitration panel resolving a
213 disagreement between the transition teams is final and binding on the boards of the existing
214 district and new district.

215 (f) (i) All costs and expenses of the transition team that represents a remaining district
216 shall be borne by the remaining district.

217 (ii) All costs and expenses of the transition team that represents a new district shall:

218 (A) initially be borne by:

219 (I) the city whose legislative body appoints the transition team, if the transition team is
220 appointed by the legislative body of a single city; or

221 (II) the interlocal agreement participants, if the transition team is appointed by the
222 legislative bodies of interlocal agreement participants; and

223 (B) be reimbursed to the city or interlocal agreement participants by the new district
224 within one year after the new district begins providing educational services.

225 Section 2. **Effective date.**

226 If approved by two-thirds of all the members elected to each house, this bill takes effect
227 upon approval by the governor, or the day following the constitutional time limit of Utah
228 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
229 the date of veto override.