

1 **REQUIREMENTS TO CREATE SCHOOL DISTRICTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John Dougall**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies a population requirement for political subdivisions initiating the
10 creation of a new school district.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a city seeking to create a new school district contiguous with the city
14 boundaries to have a minimum population of 30,000; and
15 ▶ requires interlocal agreement participants seeking to create a new school district to
16 have a combined minimum population of 30,000 within the proposed new school
17 district boundaries.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **53A-2-118.1**, as last amended by Laws of Utah 2011, Chapter 300

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

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



28 **53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to**
29 **create a school district -- Boundaries -- Election of local school board members --**
30 **Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

31 (1) (a) After conducting a feasibility study, a city with a population of at least [~~50,000~~
32 30,000], as determined by the lieutenant governor using the process described in Subsection
33 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure
34 to create a new school district with boundaries contiguous with that city's boundaries, in
35 accordance with Section 53A-2-118.

36 (b) (i) The determination of all matters relating to the scope, adequacy, and other
37 aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the
38 city's legislative body.

39 (ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of
40 a legal action or other challenge to:

41 (A) an election for voter approval of the creation of a new school district; or

42 (B) the creation of the new school district.

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

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

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

51 (B) the combined population within the proposed new school district boundaries is at
52 least [~~50,000~~] 30,000;

53 (C) the new school district boundaries:

54 (I) are contiguous;

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

58 (III) include the entire boundaries of each participant city or town, except as provided

59 in Subsection (2)(d)(ii); and

60 (IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

61 (D) the combined population within the proposed new school district of interlocal
62 agreement participants that have entered into an interlocal agreement proposing to create a new
63 school district is at least 80% of the total population of the proposed new school district.

64 (ii) The determination of all matters relating to the scope, adequacy, and other aspects
65 of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new
66 feasibility study or revise a previous feasibility study due to a change in the proposed new
67 school district boundaries, is within the exclusive discretion of the legislative bodies of the
68 interlocal agreement participants that enter into an interlocal agreement to submit for voter
69 approval a measure to create a new school district.

70 (iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the
71 basis of a legal action or other challenge to:

72 (A) an election for voter approval of the creation of a new school district; or

73 (B) the creation of the new school district.

74 (iv) For purposes of determining whether the boundaries of a proposed new school
75 district cross county lines under Subsection (2)(b)(i)(C)(IV):

76 (A) a municipality located in more than one county and entirely within the boundaries
77 of a single school district is considered to be entirely within the same county as other
78 participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's
79 land area and population is located in that same county than outside the county; and

80 (B) a municipality located in more than one county that participates in an interlocal
81 agreement under Subsection (2)(a) with respect to some but not all of the area within the
82 municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may
83 not be considered to cross county lines.

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

86 (ii) Boundaries of a new school district created under this section may include:

87 (A) a portion of one or more existing school districts; and

88 (B) a portion of the unincorporated area of a county, including a portion of a township.

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

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

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

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

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

98 (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in
99 an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area
100 within the municipality's boundaries if:

101 (A) the portion of the municipality proposed to be included in the new school district
102 would, if not included, become an isolated area upon the creation of the new school district; or

103 (B) (I) the portion of the municipality proposed to be included in the new school
104 district is within the boundaries of the same school district that includes the other interlocal
105 agreement participants; and

106 (II) the portion of the municipality proposed to be excluded from the new school
107 district is within the boundaries of a school district other than the school district that includes
108 the other interlocal agreement participants.

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

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

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

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

121 (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold
122 one or more public hearings to allow input from the public and affected school districts
123 regarding whether or not the municipality should enter into an interlocal agreement with
124 respect to the potential isolated area.

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

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

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

129 (II) The isolated area shall, on July 1 of the second calendar year following the local
130 school board general election date described in Subsection (3)(a)(i), become part of the
131 municipality's school district.

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

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

136 (Bb) require allocation of the existing district's assets and liabilities among the new
137 district, the remaining district, and the municipality's school district.

138 (IV) The existing district shall continue to provide educational services to the isolated
139 area until July 1 of the second calendar year following the local school board general election
140 date described in Subsection (3)(a)(i).

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

142 (i) an election shall be held at the next regular general election to elect:

143 (A) members to the local school board of the existing school district whose terms are
144 expiring;

145 (B) all members to the local school board of the new school district; and

146 (C) all members to the local school board of the remaining district;

147 (ii) the assets and liabilities of the existing school district shall be divided between the
148 remaining school district and the new school district as provided in Subsection (5) and Section
149 53A-2-121;

150 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
151 53A-2-122;

152 (iv) (A) an individual residing within the boundaries of a new school district at the
153 time the new school district is created may, for six school years after the creation of the new
154 school district, elect to enroll in a secondary school located outside the boundaries of the new
155 school district if:

156 (I) the individual resides within the boundaries of that secondary school as of the day
157 before the new school district is created; and

158 (II) the individual would have been eligible to enroll in that secondary school had the
159 new school district not been created; and

160 (B) the school district in which the secondary school is located shall provide
161 educational services, including, if provided before the creation of the new school district,
162 busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school
163 year for which the individual makes the election; and

164 (v) within one year after the new district begins providing educational services, the
165 superintendent of each remaining district affected and the superintendent of the new district
166 shall meet, together with the Superintendent of Public Instruction, to determine if further
167 boundary changes should be proposed in accordance with Section 53A-2-104.

168 (b) (i) The terms of the initial members of the local school board of the new district and
169 remaining district shall be staggered and adjusted by the county legislative body so that
170 approximately half of the local school board is elected every two years.

171 (ii) The term of a member of the existing local school board, including a member
172 elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local
173 school board general election date described in Subsection (3)(a)(i), regardless of when the
174 term would otherwise have terminated.

175 (iii) Notwithstanding the existence of a local school board for the new district and a
176 local school board for the remaining district under Subsection (3)(a)(i), the local school board
177 of the existing district shall continue, until the time specified in Subsection
178 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent
179 necessary to continue to provide educational services to the entire existing district.

180 (iv) A person may simultaneously serve as or be elected to be a member of the local
181 school board of an existing district and a member of the local school board of:

182 (A) a new district; or

183 (B) a remaining district.

184 (4) (a) Within 45 days after the canvass date for the election at which voters approve
185 the creation of a new district:

186 (i) a transition team to represent the remaining district shall be appointed by the
187 members of the existing local school board who reside within the area of the remaining district,
188 in consultation with:

189 (A) the legislative bodies of all municipalities in the area of the remaining district; and
190 (B) the legislative body of the county in which the remaining district is located, if the
191 remaining district includes one or more unincorporated areas of the county; and

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

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

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

197 (b) The local school board of the existing school district shall, within 60 days after the
198 canvass date for the election at which voters approve the creation of a new district:

199 (i) prepare an inventory of the existing district's:

200 (A) assets, both tangible and intangible, real and personal; and
201 (B) liabilities; and

202 (ii) deliver a copy of the inventory to each of the transition teams.

203 (c) The transition teams appointed under Subsection (4)(a) shall:

204 (i) determine the allocation of the existing district's assets and, except for indebtedness
205 under Section 53A-2-121, liabilities between the remaining district and the new district in
206 accordance with Subsection (5);

207 (ii) prepare a written report detailing how the existing district's assets and, except for
208 indebtedness under Section 53A-2-121, liabilities are to be allocated; and

209 (iii) deliver a copy of the written report to:

210 (A) the local school board of the existing district;
211 (B) the local school board of the remaining district; and
212 (C) the local school board of the new district.

213 (d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and

214 deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the
215 election at which voters approve the creation of a new district, unless that deadline is extended
216 by the mutual agreement of:

217 (i) the local school board of the existing district; and

218 (ii) (A) the legislative body of the city in which the new district is located, for a new
219 district located entirely within a single city; or

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

222 (e) (i) All costs and expenses of the transition team that represents a remaining district
223 shall be borne by the remaining district.

224 (ii) All costs and expenses of the transition team that represents a new district shall
225 initially be borne by:

226 (A) the city whose legislative body appoints the transition team, if the transition team
227 is appointed by the legislative body of a single city; or

228 (B) the interlocal agreement participants, if the transition team is appointed by the
229 legislative bodies of interlocal agreement participants.

230 (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal
231 agreement participants for:

232 (A) transition team costs and expenses; and

233 (B) startup costs and expenses incurred by the city or interlocal agreement participants
234 on behalf of the new district.

235 (5) (a) As used in this Subsection (5):

236 (i) "Associated property" means furniture, equipment, or supplies located in or
237 specifically associated with a physical asset.

238 (ii) (A) "Discretionary asset or liability" means, except as provided in Subsection
239 (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or
240 employee by law or school district accounting practice.

241 (B) "Discretionary asset or liability" does not include a physical asset, associated
242 property, a vehicle, or bonded indebtedness.

243 (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection
244 (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee

245 by law or school district accounting practice.

246 (B) "Nondiscretionary asset or liability" does not include a physical asset, associated
247 property, a vehicle, or bonded indebtedness.

248 (iv) "Physical asset" means a building, land, or water right together with revenue
249 derived from the lease or use of the building, land, or water right.

250 (b) Except as provided in Subsection (5)(c), the transition teams appointed under
251 Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the
252 allocation date, both tangible and intangible, real and personal, to the new district and
253 remaining district as follows:

254 (i) a physical asset and associated property shall be allocated to the school district in
255 which the physical asset is located;

256 (ii) a discretionary asset or liability shall be allocated between the new district and
257 remaining district in proportion to the student populations of the school districts;

258 (iii) a nondiscretionary asset shall be allocated to the school district where the project,
259 school, student, or employee to which the nondiscretionary asset is tied will be located;

260 (iv) vehicles used for pupil transportation shall be allocated:

261 (A) according to the transportation needs of schools, as measured by the number and
262 assortment of vehicles used to serve transportation routes serving schools within the new
263 district and remaining district; and

264 (B) in a manner that gives each school district a fleet of vehicles for pupil
265 transportation that is equivalent in terms of age, condition, and variety of carrying capacities;
266 and

267 (v) other vehicles shall be allocated:

268 (A) in proportion to the student populations of the school districts; and

269 (B) in a manner that gives each district a fleet of vehicles that is similar in terms of age,
270 condition, and carrying capacities.

271 (c) By mutual agreement, the transition teams may allocate an asset or liability in a
272 manner different than the allocation method specified in Subsection (5)(b).

273 (6) (a) As used in this Subsection (6):

274 (i) "New district startup costs" means:

275 (A) costs and expenses incurred by a new district in order to prepare to begin providing

276 educational services on July 1 of the second calendar year following the local school board
277 general election date described in Subsection (3)(a)(i); and

278 (B) the costs and expenses of the transition team that represents the new district.

279 (ii) "Remaining district startup costs" means:

280 (A) costs and expenses incurred by a remaining district in order to:

281 (I) make necessary adjustments to deal with the impacts resulting from the creation of
282 the new district; and

283 (II) prepare to provide educational services within the remaining district once the new
284 district begins providing educational services within the new district; and

285 (B) the costs and expenses of the transition team that represents the remaining district.

286 (b) (i) By January 1 of the year following the local school board general election date
287 described in Subsection (3)(a)(i), the existing district shall make half of the undistributed
288 reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the
289 remaining district and the new district, as provided in this Subsection (6).

290 (ii) The existing district may make additional funds available for the use of the
291 remaining district and the new district beyond the amount specified in Subsection (6)(b)(i)
292 through an interlocal agreement.

293 (c) The existing district shall make the money under Subsection (6)(b) available to the
294 remaining district and the new district proportionately based on student population.

295 (d) The money made available under Subsection (6)(b) may be accessed and spent by:

296 (i) for the remaining district, the local school board of the remaining district; and

297 (ii) for the new district, the local school board of the new district.

298 (e) (i) The remaining district may use its portion of the money made available under
299 Subsection (6)(b) to pay for remaining district startup costs.

300 (ii) The new district may use its portion of the money made available under Subsection
301 (6)(b) to pay for new district startup costs.

302 (7) (a) The existing district shall transfer title or, if applicable, partial title of property
303 to the new school district in accordance with the allocation of property by the transition teams,
304 as stated in the report under Subsection (4)(c)(ii).

305 (b) The existing district shall complete each transfer of title or, if applicable, partial
306 title to real property and vehicles by July 1 of the second calendar year following the local

307 school board general election date described in Subsection (3)(a)(i), except as that date is
308 changed by the mutual agreement of:

- 309 (i) the local school board of the existing district;
- 310 (ii) the local school board of the remaining district; and
- 311 (iii) the local school board of the new district.

312 (c) The existing district shall complete the transfer of all property not included in
313 Subsection (7)(b) by November 1 of the second calendar year after the local school board
314 general election date described in Subsection (3)(a)(i).

315 (8) Except as provided in Subsections (6) and (7), after the creation election date an
316 existing school district may not transfer or agree to transfer title to district property without the
317 prior consent of:

- 318 (a) the legislative body of the city in which the new district is located, for a new district
319 located entirely within a single city; or
- 320 (b) the legislative bodies of all interlocal agreement participants, for each other new
321 district.

322 (9) This section does not apply to the creation of a new district initiated through a
323 citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

Legislative Review Note
as of 11-17-11 1:00 PM

Office of Legislative Research and General Counsel