

**SCHOOL DISTRICT AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends certain provisions related to the creation of a new school district.

**Highlighted Provisions:**

This bill:

- ▶ provides that a qualifying city or interlocal agreement participant may not submit for voter approval a measure to create a new school district if the results of a feasibility study show that the five-year projected average annual revenue of the proposed new school district exceeds the five-year projected average annual cost of the proposed new school district by more than 5%;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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



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

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

32 (1) As used in this section a "qualifying city" means a city with a population of at least  
33 50,000, as determined by the lieutenant governor using the process described in Subsection  
34 67-1a-2(3).

35 ~~[(1)] (2) (a) [After conducting a feasibility study, a city with a population of at least~~  
36 ~~50,000, as determined by the lieutenant governor using the process described in Subsection~~  
37 ~~67-1a-2(3);] A qualifying city may, by majority vote of the legislative body, submit for voter~~  
38 approval a measure to create a new school district with boundaries contiguous with that city's  
39 boundaries, in accordance with Section 53A-2-118.

40 (b) Prior to submitting for voter approval a measure to create a new school district, a  
41 qualifying city shall conduct a feasibility study in accordance with Subsection (4).

42 (c) A qualifying city may not submit for voter approval a measure to create a new  
43 school district if the results of a feasibility study described in Subsection (2)(b) show that the  
44 five-year projected average annual revenue calculated under Subsection (4)(a) exceeds the  
45 five-year projected average annual cost under Subsection (4)(b) by more than 5%.

46 ~~[(b)] (d) (i) [The] Subject to Subsections (2)(c) and (4), the determination of all matters~~  
47 relating to the scope, adequacy, and other aspects of a feasibility study ~~[under Subsection~~  
48 ~~(1)(a)]~~ is within the exclusive discretion of the city's legislative body.

49 (ii) An inadequacy of a feasibility study under Subsection ~~[(1)(a)]~~ (4) may not be the  
50 basis of a legal action or other challenge to:

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

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

53 ~~[(2)]~~ (3) (a) By majority vote of the legislative body, a city of any class, a town, or a  
54 county, may, together with one or more other cities, towns, or the county enter into an  
55 interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for  
56 the purpose of submitting for voter approval a measure to create a new school district.

57 (b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under  
58 Subsection ~~[(2)]~~ (3)(a) may submit a proposal for voter approval if:

59 (A) the interlocal agreement participants conduct a feasibility study, in accordance with  
60 Subsection (4), prior to submitting the proposal [to the county] for voter approval;

61 (B) the results of the feasibility study described in Subsection (3)(b)(i)(A) show that  
62 the five-year projected average annual revenue calculated under Subsection (4)(a) does not  
63 exceed the five-year projected average annual cost calculated under Subsection (4)(b) by more  
64 than 5%;

65 ~~(B)~~ (C) the combined population within the proposed new school district boundaries  
66 is at least 50,000;

67 ~~(C)~~ (D) the new school district boundaries:

68 (I) are contiguous;

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

73 (III) include the entire boundaries of each participant city or town, except as provided  
74 in Subsection ~~(2)~~ (3)(d)(ii); and

75 (IV) subject to Subsection ~~(2)~~ (3)(b)(ii), do not cross county lines; and

76 ~~(D)~~ (E) the combined population within the proposed new school district of interlocal  
77 agreement participants that have entered into an interlocal agreement proposing to create a new  
78 school district is at least 80% of the total population of the proposed new school district.

79 (ii) ~~The~~ Subject to Subsections (3)(b)(i)(A) and (4), the determination of all matters  
80 relating to the scope, adequacy, and other aspects of a feasibility study [under Subsection  
81 ~~(2)(b)(i)(A)~~], including whether to conduct a new feasibility study or revise a previous  
82 feasibility study due to a change in the proposed new school district boundaries, is within the  
83 exclusive discretion of the legislative bodies of the interlocal agreement participants that enter  
84 into an interlocal agreement to submit for voter approval a measure to create a new school  
85 district.

86 (iii) An inadequacy of a feasibility study under Subsection ~~(2)(b)(i)(A)~~ (4) may not be  
87 the basis of a legal action or other challenge to:

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

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

90 (iv) For purposes of determining whether the boundaries of a proposed new school  
91 district cross county lines under Subsection [~~(2)(b)(i)(C)(IV)] (3)(b)(i)(D)(IV):~~

92 (A) a municipality located in more than one county and entirely within the boundaries  
93 of a single school district is considered to be entirely within the same county as other  
94 participants in an interlocal agreement under Subsection [~~(2)] (3)(a) if more of the  
95 municipality's land area and population is located in that same county than outside the county;  
96 and~~

97 (B) a municipality located in more than one county that participates in an interlocal  
98 agreement under Subsection [~~(2)] (3)(a) with respect to some but not all of the area within the  
99 municipality's boundaries on the basis of the exception stated in Subsection [~~(2)] (3)(d)(ii)(B)  
100 may not be considered to cross county lines.~~~~

101 (c) (i) A county may only participate in an interlocal agreement under this Subsection  
102 [~~(2)] (3) for the unincorporated areas of the county.~~

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

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

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

106 (d) (i) As used in this Subsection [~~(2)] (3)(d):~~

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

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

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

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

115 (ii) Notwithstanding Subsection [~~(2)(b)(i)(C)(III)] (3)(b)(i)(D)(III), a municipality may  
116 be a participant in an interlocal agreement under Subsection [~~(2)] (3)(a) with respect to some  
117 but not all of the area within the municipality's boundaries if:~~~~

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

120 (B) (I) the portion of the municipality proposed to be included in the new school

121 district is within the boundaries of the same school district that includes the other interlocal  
122 agreement participants; and

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

126 (iii) (A) Notwithstanding Subsection [~~(2)(b)(i)(C)(II)~~] (3)(b)(i)(D)(II), a proposal to  
127 create a new school district may be submitted for voter approval pursuant to an interlocal  
128 agreement under Subsection [~~(2)~~] (3)(a), even though the new school district boundaries would  
129 create an isolated area, if:

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

132 (II) the interlocal participants submit a written request to the municipality in which the  
133 potential isolated area is located, requesting the municipality to enter into an interlocal  
134 agreement under Subsection [~~(2)~~] (3)(a) that proposes to submit for voter approval a measure to  
135 create a new school district that includes the potential isolated area; and

136 (III) 90 days after a request under Subsection [~~(2)~~] (3)(d)(iii)(A)(II) is submitted, the  
137 municipality has not entered into an interlocal agreement as requested in the request.

138 (B) Each municipality receiving a request under Subsection [~~(2)~~] (3)(d)(iii)(A)(II) shall  
139 hold one or more public hearings to allow input from the public and affected school districts  
140 regarding whether or not the municipality should enter into an interlocal agreement with  
141 respect to the potential isolated area.

142 (C) (I) This Subsection [~~(2)~~] (3)(d)(iii)(C) applies if:

143 (Aa) a new school district is created under this section after a measure is submitted to  
144 voters based on the authority of Subsection [~~(2)~~] (3)(d)(iii)(A); and

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

146 (II) The isolated area shall, on July 1 of the second calendar year following the local  
147 school board general election date described in Subsection [~~(3)~~] (5)(a)(i), become part of the  
148 municipality's school district.

149 (III) Unless the isolated area is the only remaining part of the existing district, the  
150 process described in Subsection [~~(4)~~] (6) shall be modified to:

151 (Aa) include a third transition team, appointed by the local school board of the

152 municipality's school district, to represent that school district; and

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

155 (IV) The existing district shall continue to provide educational services to the isolated  
156 area until July 1 of the second calendar year following the local school board general election  
157 date described in Subsection [~~(3)~~] (5)(a)(i).

158 (4) A qualifying city or interlocal agreement participant shall ensure that a feasibility  
159 study under this section:

160 (a) considers the present revenues of the area within the proposed new school district  
161 and calculates the five-year projected average annual revenue for the proposed new school  
162 district;

163 (b) considers the present costs of the area within the proposed new school district and  
164 calculates the five-year projected average annual cost, including overhead, of governmental  
165 services in the proposed new school district including:

166 (i) operation and maintenance;

167 (ii) capital outlay;

168 (iii) debt service; and

169 (iv) school lunch;

170 (c) assumes a level and quality of school district services to be provided to the  
171 proposed new school district in the future that fairly and reasonably approximates the level and  
172 quality of school district services being provided to the existing school district at the time of  
173 the feasibility study; and

174 (d) assumes the same tax categories and tax rates as currently imposed by the existing  
175 school district.

176 [~~(3)~~] (5) (a) If a proposal under this section is approved by voters:

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

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

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

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

182 (ii) the assets and liabilities of the existing school district shall be divided between the

183 remaining school district and the new school district as provided in Subsection [~~(5)~~] (7) and  
184 Section 53A-2-121;

185 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and  
186 53A-2-122;

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

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

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

195 (B) the school district in which the secondary school is located shall provide  
196 educational services, including, if provided before the creation of the new school district,  
197 busing, to each individual making an election under Subsection [~~(3)~~] (5)(a)(iv)(A) for each  
198 school year for which the individual makes the election; and

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

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

206 (ii) The term of a member of the existing local school board, including a member  
207 elected under Subsection [~~(3)~~] (5)(a)(i)(A), terminates on July 1 of the second year after the  
208 local school board general election date described in Subsection [~~(3)~~] (5)(a)(i), regardless of  
209 when the term would otherwise have terminated.

210 (iii) Notwithstanding the existence of a local school board for the new district and a  
211 local school board for the remaining district under Subsection [~~(3)~~] (5)(a)(i), the local school  
212 board of the existing district shall continue, until the time specified in Subsection  
213 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent

214 necessary to continue to provide educational services to the entire existing district.

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

217 (A) a new district; or

218 (B) a remaining district.

219 ~~[(4)]~~ (6) (a) Within 45 days after the canvass date for the election at which voters  
220 approve the creation of a new district:

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

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

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

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

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

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

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

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

235 (A) assets, both tangible and intangible, real and personal; and

236 (B) liabilities; and

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

238 (c) The transition teams appointed under Subsection ~~[(4)]~~ (6)(a) shall:

239 (i) determine the allocation of the existing district's assets and, except for indebtedness  
240 under Section 53A-2-121, liabilities between the remaining district and the new district in  
241 accordance with Subsection ~~[(5)]~~ (7);

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

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

245 (A) the local school board of the existing district;

246 (B) the local school board of the remaining district; and

247 (C) the local school board of the new district.

248 (d) The transition teams shall determine the allocation under Subsection [~~(4)~~] (6)(c)(i)

249 and deliver the report required under Subsection [~~(4)~~] (6)(c)(ii) before August 1 of the year

250 following the election at which voters approve the creation of a new district, unless that

251 deadline is extended by the mutual agreement of:

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

253 (ii) (A) the legislative body of the city in which the new district is located, for a new

254 district located entirely within a single city; or

255 (B) the legislative bodies of all interlocal agreement participants, for each other new

256 district.

257 (e) (i) All costs and expenses of the transition team that represents a remaining district

258 shall be borne by the remaining district.

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

260 initially be borne by:

261 (A) the city whose legislative body appoints the transition team, if the transition team

262 is appointed by the legislative body of a single city; or

263 (B) the interlocal agreement participants, if the transition team is appointed by the

264 legislative bodies of interlocal agreement participants.

265 (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal

266 agreement participants for:

267 (A) transition team costs and expenses; and

268 (B) startup costs and expenses incurred by the city or interlocal agreement participants

269 on behalf of the new district.

270 [~~(5)~~] (7) (a) As used in this Subsection [~~(5)~~] (7):

271 (i) "Associated property" means furniture, equipment, or supplies located in or

272 specifically associated with a physical asset.

273 (ii) (A) "Discretionary asset or liability" means, except as provided in Subsection [~~(5)~~]

274 (7)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or

275 employee by law or school district accounting practice.

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

278 (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection  
279 ~~[(5)]~~ (7)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or  
280 employee by law or school district accounting practice.

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

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

285 (b) Except as provided in Subsection ~~[(5)]~~ (7)(c), the transition teams appointed under  
286 Subsection ~~[(4)]~~ (6)(a) shall allocate all assets and liabilities the existing district owns on the  
287 allocation date, both tangible and intangible, real and personal, to the new district and  
288 remaining district as follows:

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

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

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

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

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

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

302 (v) other vehicles shall be allocated:

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

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

306 (c) By mutual agreement, the transition teams may allocate an asset or liability in a

307 manner different than the allocation method specified in Subsection [~~(5)~~] (7)(b).  
308 [~~(6)~~] (8) (a) As used in this Subsection [~~(6)~~] (8):  
309 (i) "New district startup costs" means:  
310 (A) costs and expenses incurred by a new district in order to prepare to begin providing  
311 educational services on July 1 of the second calendar year following the local school board  
312 general election date described in Subsection [~~(3)~~] (5)(a)(i); and  
313 (B) the costs and expenses of the transition team that represents the new district.  
314 (ii) "Remaining district startup costs" means:  
315 (A) costs and expenses incurred by a remaining district in order to:  
316 (I) make necessary adjustments to deal with the impacts resulting from the creation of  
317 the new district; and  
318 (II) prepare to provide educational services within the remaining district once the new  
319 district begins providing educational services within the new district; and  
320 (B) the costs and expenses of the transition team that represents the remaining district.  
321 (b) (i) By January 1 of the year following the local school board general election date  
322 described in Subsection [~~(3)~~] (5)(a)(i), the existing district shall make half of the undistributed  
323 reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the  
324 remaining district and the new district, as provided in this Subsection [~~(6)~~] (8).  
325 (ii) The existing district may make additional funds available for the use of the  
326 remaining district and the new district beyond the amount specified in Subsection [~~(6)~~] (8)(b)(i)  
327 through an interlocal agreement.  
328 (c) The existing district shall make the money under Subsection [~~(6)~~] (8)(b) available  
329 to the remaining district and the new district proportionately based on student population.  
330 (d) The money made available under Subsection [~~(6)~~] (8)(b) may be accessed and spent  
331 by:  
332 (i) for the remaining district, the local school board of the remaining district; and  
333 (ii) for the new district, the local school board of the new district.  
334 (e) (i) The remaining district may use its portion of the money made available under  
335 Subsection [~~(6)~~] (8)(b) to pay for remaining district startup costs.  
336 (ii) The new district may use its portion of the money made available under Subsection  
337 [~~(6)~~] (8)(b) to pay for new district startup costs.

338           ~~[(7)]~~ (9) (a) The existing district shall transfer title or, if applicable, partial title of  
339 property to the new school district in accordance with the allocation of property by the  
340 transition teams, as stated in the report under Subsection ~~[(4)]~~ (6)(c)(ii).

341           (b) The existing district shall complete each transfer of title or, if applicable, partial  
342 title to real property and vehicles by July 1 of the second calendar year following the local  
343 school board general election date described in Subsection ~~[(3)]~~ (5)(a)(i), except as that date is  
344 changed by the mutual agreement of:

- 345           (i) the local school board of the existing district;
- 346           (ii) the local school board of the remaining district; and
- 347           (iii) the local school board of the new district.

348           (c) The existing district shall complete the transfer of all property not included in  
349 Subsection ~~[(7)]~~ (9)(b) by November 1 of the second calendar year after the local school board  
350 general election date described in Subsection ~~[(3)]~~ (5)(a)(i).

351           ~~[(8)]~~ (10) Except as provided in Subsections ~~[(6)]~~ (8) and ~~[(7)]~~ (9), after the creation  
352 election date an existing school district may not transfer or agree to transfer title to district  
353 property without the prior consent of:

- 354           (a) the legislative body of the city in which the new district is located, for a new district  
355 located entirely within a single city; or
- 356           (b) the legislative bodies of all interlocal agreement participants, for each other new  
357 district.

358           ~~[(9)]~~ (11) This section does not apply to the creation of a new district initiated through  
359 a citizens' initiative petition or at the request of a local school board under Section [53A-2-118](#).

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**Legislative Review Note**  
as of 1-8-14 3:22 PM

**Office of Legislative Research and General Counsel**