

AMENDMENTS TO ELECTION LAW

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill makes changes to election law.

Highlighted Provisions:

This bill:

- ▶ changes the date on which a municipal clerk is required to publish an election notice;
- ▶ changes provisions related to filling a midterm vacancy in a municipal office;
- ▶ creates a deadline by which a county clerk is required to send notification to an individual who submits a voter registration application;
- ▶ clarifies provisions related to filing a declaration of candidacy for municipal office;
- ▶ changes criteria related to the signatures that are required for a petition to create a new school district; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-301, as last amended by Laws of Utah 2014, Chapter 38



- 28 **20A-1-510**, as last amended by Laws of Utah 2012, Chapter 327
- 29 **20A-2-304**, as last amended by Laws of Utah 2006, Chapter 264
- 30 **20A-9-203**, as last amended by Laws of Utah 2014, Chapter 38
- 31 **20A-9-404**, as last amended by Laws of Utah 2013, Chapter 402
- 32 **53A-2-118**, as last amended by Laws of Utah 2010, Chapter 230

33

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

34 Section 1. Section **10-3-301** is amended to read:

35 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**
36 **office -- Mayor and recorder limitations.**

37 (1) (a) On or before [~~February 1~~] May 1 in a year in which there is a municipal general
38 election, the municipal clerk shall publish a notice that identifies:

- 39 (i) the municipal offices to be voted on in the municipal general election; and
- 40 (ii) the dates for filing a declaration of candidacy for the offices identified under

41 Subsection (1)(a)(i).

42 (b) The municipal clerk shall publish the notice described in Subsection (1)(a):

- 43 (i) on the Utah Public Notice Website established by Section **63F-1-701**; and
- 44 (ii) in at least one of the following ways:

45 (A) at the principal office of the municipality;

46 (B) in a newspaper of general circulation within the municipality at least once a week
47 for two successive weeks in accordance with Section **45-1-101**;

48 (C) in a newsletter produced by the municipality;

49 (D) on a website operated by the municipality; or

50 (E) with a utility enterprise fund customer's bill.

51 (2) (a) A person filing a declaration of candidacy for a municipal office shall meet the
52 requirements of Section **20A-9-203**.

53 (b) (i) Except as provided in Subsection (2)(b)(ii), the city recorder or town clerk of
54 each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in
55 Subsections **20A-9-203**(2)(a)(i) and (b)(i) unless the date occurs on a:

56 (A) Saturday or Sunday; or

57 (B) state holiday as listed in Section **63G-1-301**.

59 (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that
60 is less than 40 hours per week, the city recorder or town clerk may comply with Subsection
61 (2)(b)(i) without maintaining office hours by:

62 (A) posting the recorder's or clerk's contact information, including a phone number and
63 email address, on the recorder's or clerk's office door, the main door to the municipal offices,
64 and, if available, on the municipal website; and

65 (B) being available at that contact information from 8 a.m. to 5 p.m. on the dates
66 described in Subsection (2)(b)(i).

67 (3) Any person elected to municipal office shall be a registered voter in the
68 municipality in which the person was elected.

69 (4) (a) Each elected officer of a municipality shall maintain residency within the
70 boundaries of the municipality during the officer's term of office.

71 (b) If an elected officer of a municipality establishes a principal place of residence as
72 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
73 office is automatically vacant.

74 (5) If an elected municipal officer is absent from the municipality any time during the
75 officer's term of office for a continuous period of more than 60 days without the consent of the
76 municipal legislative body, the municipal office is automatically vacant.

77 (6) (a) A mayor of a municipality may not also serve as the municipal recorder or
78 treasurer.

79 (b) The recorder of a municipality may not also serve as the municipal treasurer.

80 Section 2. Section 20A-1-510 is amended to read:

81 **20A-1-510. Midterm vacancies in municipal offices.**

82 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the
83 office of municipal executive or member of a municipal legislative body, the municipal
84 legislative body shall appoint a registered voter in the municipality who meets the
85 qualifications for office established in Section 10-3-301 to fill the unexpired term of the
86 vacated office [~~vacated until the January following the next municipal election~~].

87 (b) Before acting to fill the vacancy, the municipal legislative body shall:

88 (i) give public notice of the vacancy at least two weeks before the municipal legislative
89 body meets to fill the vacancy;

90 (ii) identify, in the notice:
91 (A) the date, time, and place of the meeting where the vacancy will be filled;
92 (B) the person to whom a person interested in being appointed to fill the vacancy may
93 submit the interested person's name for consideration; and
94 (C) the deadline for submitting an interested person's name; and
95 (iii) in an open meeting, interview each person whose name was submitted for
96 consideration and meets the qualifications for office regarding the person's qualifications.
97 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within
98 30 days after the vacancy occurs, the municipal legislative body shall fill the vacancy from
99 among the names that have been submitted.
100 (ii) The two persons having the highest number of votes of the municipal legislative
101 body after a first vote is taken shall appear before the municipal legislative body and the
102 municipal legislative body shall vote again.
103 (iii) If neither candidate receives a majority vote of the municipal legislative body at
104 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.
105 (2) (a) A vacancy in the office of municipal executive or member of a municipal
106 legislative body shall be filled by an interim appointment, followed by an election to fill a
107 two-year term, if:
108 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive
109 at least 14 days before the deadline for filing for election in an odd-numbered year; and
110 (ii) two years of the vacated term will remain after the first Monday of January
111 following the next municipal election.
112 (b) In appointing an interim replacement, the municipal legislative body shall:
113 (i) comply with the notice requirements of this section; and
114 (ii) in an open meeting, interview each person whose name was submitted for
115 consideration and meets the qualifications for office regarding the person's qualifications.
116 (3) (a) In a municipality operating under the council-mayor form of government, as
117 defined in Section [10-3b-102](#):
118 (i) the council may appoint a person to fill a vacancy in the office of mayor before the
119 effective date of the mayor's resignation by making the effective date of the appointment the
120 same as the effective date of the mayor's resignation; and

121 (ii) if a vacancy in the office of mayor occurs before the effective date of an
 122 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as
 123 acting mayor during the time between the creation of the vacancy and the effective date of the
 124 appointment to fill the vacancy.

125 (b) While serving as acting mayor under Subsection (3)(a)(ii), the council chair
 126 continues to:

127 (i) act as a council member; and

128 (ii) vote at council meetings.

129 Section 3. Section **20A-2-304** is amended to read:

130 **20A-2-304. County clerk's responsibilities -- Notice of disposition.**

131 Each county clerk shall:

132 (1) register to vote each applicant for registration who meets the requirements for
 133 registration and who:

134 (a) submits a completed voter registration form to the county clerk on or before the
 135 voter registration deadline;

136 (b) submits a completed voter registration form to the Driver License Division, a
 137 public assistance agency, or a discretionary voter registration agency on or before the voter
 138 registration deadline; or

139 (c) mails a completed by-mail voter registration form to the county clerk on or before
 140 the voter registration deadline; and

141 (2) within 30 days after the day on which the county clerk processes a voter registration
 142 application, send a notice to the [voter] individual who submitted the application informing the
 143 [voter] individual that:

144 (a) the [voter's] individual's application for voter registration has been accepted and
 145 that the [voter] individual is registered to vote;

146 (b) the [voter's] individual's application for voter registration has been rejected and the
 147 reason for the rejection; or

148 (c) the application for voter registration is being returned to the [voter] individual for
 149 further action because the application is incomplete and giving instructions to the [voter]
 150 individual about how to properly complete the application.

151 Section 4. Section **20A-9-203** is amended to read:

152 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

153 (1) (a) (i) A person may become a candidate for any municipal office if:

154 (A) the person is a registered voter; and

155 (B) (I) the person has resided within the municipality in which that person seeks to
156 hold elective office for the 12 consecutive months immediately before the date of the election;
157 or

158 (II) if the territory in which the person resides was annexed into the municipality, the
159 person has resided within the annexed territory or the municipality the 12 consecutive months
160 immediately before the date of the election.

161 (ii) For purposes of determining whether a person meets the residency requirement of
162 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before
163 the election, the municipality shall be considered to have been incorporated 12 months before
164 the date of the election.

165 (b) In addition to the requirements of Subsection (1)(a), each candidate for a municipal
166 council position shall, if elected from a district, be a resident of the council district from which
167 elected.

168 (c) In accordance with Utah Constitution, Article IV, Section 6, any mentally
169 incompetent person, any person convicted of a felony, or any person convicted of treason or a
170 crime against the elective franchise may not hold office in this state until the right to hold
171 elective office is restored under Section [20A-2-101.3](#) or [20A-2-101.5](#).

172 (2) (a) A person seeking to become a candidate for a municipal office, regardless of the
173 nomination method by which the person seeks to become a candidate, shall:

174 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
175 the office hours described in Section [10-3-301](#) and not later than the close of those office
176 hours, between June 1 and June 7 of any odd-numbered year; and

177 (ii) pay the filing fee, if one is required by municipal ordinance.

178 (b) Any resident of a municipality may nominate a candidate for a municipal office by:

179 (i) filing a nomination petition with the city recorder or town clerk during the office
180 hours described in Section [10-3-301](#) and not later than the close of those office hours, between
181 June 1 and June 7 of any odd-numbered year; and

182 (ii) paying the filing fee, if one is required by municipal ordinance.

183 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
184 petition, the filing officer shall:

185 (i) read to the prospective candidate or person filing the petition the constitutional and
186 statutory qualification requirements for the office that the candidate is seeking; and

187 (ii) require the candidate or person filing the petition to state whether the candidate
188 meets those requirements.

189 (b) If the prospective candidate does not meet the qualification requirements for the
190 office, the filing officer may not accept the declaration of candidacy or nomination petition.

191 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
192 filing officer shall:

193 (i) inform the candidate that the candidate's name will appear on the ballot as it is
194 written on the declaration of candidacy;

195 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
196 for the office the candidate is seeking and inform the candidate that failure to comply will
197 result in disqualification as a candidate and removal of the candidate's name from the ballot;

198 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
199 Electronic Voter Information Website Program and inform the candidate of the submission
200 deadline under Subsection 20A-7-801(4)(a);

201 (iv) provide the candidate with a copy of the pledge of fair campaign practices
202 described under Section 20A-9-206 and inform the candidate that:

203 (A) signing the pledge is voluntary; and

204 (B) signed pledges shall be filed with the filing officer; and

205 (v) accept the declaration of candidacy or nomination petition.

206 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
207 officer shall:

208 (i) accept the candidate's pledge; and

209 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
210 candidate's pledge to the chair of the county or state political party of which the candidate is a
211 member.

212 (4) Notwithstanding the requirement in Subsection (2)(a)(i) to file a declaration of
213 candidacy in person, a person may designate an agent to file the form described in Subsection

214 (5) in person with the city recorder or town clerk if:

215 (a) the person is located outside the state during the filing period because:

216 (i) of employment with the state or the United States; or

217 (ii) the person is a member of:

218 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or
219 Coast Guard of the United States who is on active duty;

220 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the
221 commissioned corps of the National Oceanic and Atmospheric Administration of the United
222 States; or

223 (C) the National Guard on activated status;

224 (b) the person makes the declaration of candidacy described in Subsection (5) to a
225 person qualified to administer an oath;

226 (c) the person communicates with the city recorder or town clerk using an electronic
227 device that allows the person and the city recorder or town clerk to see and hear each other; and

228 (d) the person provides the city recorder or town clerk with an email address to which
229 the filing officer may send the copies described in Subsection (3).

230 (5) (a) The declaration of candidacy shall substantially comply with the following
231 form:

232 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
233 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
234 registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet
235 the legal qualifications required of candidates for this office. I will file all campaign financial
236 disclosure reports as required by law and I understand that failure to do so will result in my
237 disqualification as a candidate for this office and removal of my name from the ballot. I
238 request that my name be printed upon the applicable official ballots. (Signed)

239 _____

240 Subscribed and sworn to (or affirmed) before me by ____ on this
241 _____ (month\day\year).

242 (Signed) _____ (Clerk or other officer qualified to administer oath)"

243 (b) An agent designated to file a declaration of candidacy under Subsection (4) may not
244 sign the form described in Subsection (5)(a).

245 (6) (a) A registered voter may be nominated for municipal office by submitting a
246 petition signed, with a holographic signature, by:

247 (i) 25 residents of the municipality who are at least 18 years old; or

248 (ii) 20% of the residents of the municipality who are at least 18 years old.

249 (b) (i) The petition shall substantially conform to the following form:

250 "NOMINATION PETITION

251 The undersigned residents of (name of municipality) being 18 years old or older
252 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
253 applicable)."

254 (ii) The remainder of the petition shall contain lines and columns for the signatures of
255 persons signing the petition and their addresses and telephone numbers.

256 (7) If the declaration of candidacy or nomination petition fails to state whether the
257 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
258 the four-year term.

259 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
260 voters.

261 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
262 print the candidate's name on the ballot.

263 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
264 clerk shall:

265 (a) cause the names of the candidates as they will appear on the ballot to be published:

266 (i) in at least two successive publications of a newspaper with general circulation in the
267 municipality; and

268 (ii) as required in Section 45-1-101; and

269 (b) notify the lieutenant governor of the names of the candidates as they will appear on
270 the ballot.

271 (10) A declaration of candidacy or nomination petition filed under this section may not
272 be amended after the expiration of the period for filing a declaration of candidacy.

273 (11) (a) A declaration of candidacy or nomination petition filed under this section is
274 valid unless a written objection is filed with the clerk within five days after the last day for
275 filing.

276 (b) If an objection is made, the clerk shall:
277 (i) mail or personally deliver notice of the objection to the affected candidate
278 immediately; and
279 (ii) decide any objection within 48 hours after it is filed.
280 (c) If the clerk sustains the objection, the candidate may correct the problem by
281 amending the declaration or petition within three days after the objection is sustained or by
282 filing a new declaration within three days after the objection is sustained.
283 (d) (i) The clerk's decision upon objections to form is final.
284 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
285 prompt application is made to the district court.
286 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
287 of its discretion, agrees to review the lower court decision.
288 (12) Any person who filed a declaration of candidacy and was nominated, and any
289 person who was nominated by a nomination petition, may, any time up to 23 days before the
290 election, withdraw the nomination by filing a written affidavit with the clerk.
291 Section 5. Section **20A-9-404** is amended to read:
292 **20A-9-404. Municipal primary elections.**
293 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
294 all municipalities shall be nominated at a municipal primary election.
295 (b) Municipal primary elections shall be held:
296 (i) consistent with Section [20A-1-201.5](#), on the second Tuesday following the first
297 Monday in the August before the regular municipal election; and
298 (ii) whenever possible, at the same polling places as the regular municipal election.
299 (2) If the number of candidates for a particular municipal office does not exceed twice
300 the number of persons needed to fill that office, a primary election for that office may not be
301 held and the candidates are considered nominated.
302 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
303 of voters or delegates.
304 (b) (i) By ordinance adopted before the May 1 that falls before a regular municipal
305 election, any third, fourth, or fifth class city or town may exempt itself from a primary election
306 by providing that the nomination of candidates for municipal office to be voted upon at a

307 municipal election be nominated by a political party convention or committee.

308 (ii) Any primary election exemption ordinance adopted under the authority of this
309 subsection remains in effect until repealed by ordinance.

310 (c) (i) A convention or committee may not nominate:

311 (A) an individual who has not submitted a declaration of candidacy under Section
312 20A-9-203; or

313 (B) more than one group of candidates, or have placed on the ballot more than one
314 group of candidates, for the municipal offices to be voted upon at the municipal election.

315 (ii) A convention or committee may nominate a person who has been nominated by a
316 different convention or committee.

317 (iii) A political party may not have more than one group of candidates placed upon the
318 ballot and may not group the same candidates on different tickets by the same party under a
319 different name or emblem.

320 (d) (i) The convention or committee shall prepare a certificate of nomination for each
321 person nominated.

322 (ii) The certificate of nomination shall:

323 (A) contain the name of the office for which each person is nominated, the name, post
324 office address, and, if in a city, the street number of residence and place of business, if any, of
325 each person nominated;

326 (B) designate in not more than five words the political party that the convention or
327 committee represents;

328 (C) contain a copy of the resolution passed at the convention that authorized the
329 committee to make the nomination;

330 (D) contain a statement certifying that the name of the candidate nominated by the
331 political party will not appear on the ballot as a candidate for any other political party;

332 (E) be signed by the presiding officer and secretary of the convention or committee;
333 and

334 (F) contain a statement identifying the residence and post office address of the
335 presiding officer and secretary and certifying that the presiding officer and secretary were
336 officers of the convention or committee and that the certificates are true to the best of their
337 knowledge and belief.

338 (iii) Certificates of nomination shall be filed with the clerk not later than 80 days
339 before the municipal general election.

340 (e) A committee appointed at a convention, if authorized by an enabling resolution,
341 may also make nominations or fill vacancies in nominations made at a convention.

342 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,
343 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
344 be included with the candidate's name.

345 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1
346 that falls before the regular municipal election that:

347 (i) exempts the city from the other methods of nominating candidates to municipal
348 office provided in this section; and

349 (ii) provides for a partisan primary election method of nominating candidates as
350 provided in this Subsection (4).

351 (b) (i) Any party that was a registered political party at the last regular general election
352 or regular municipal election is a municipal political party under this section.

353 (ii) Any political party may qualify as a municipal political party by presenting a
354 petition to the city recorder that:

355 (A) is signed, with a holographic signature, by registered voters within the municipality
356 equal to at least 20% of the number of votes cast for all candidates for mayor in the last
357 municipal election at which a mayor was elected;

358 (B) is filed with the city recorder by May 31 of any odd-numbered year;

359 (C) is substantially similar to the form of the signature sheets described in Section
360 [20A-7-303](#); and

361 (D) contains the name of the municipal political party using not more than five words.

362 (c) (i) If the number of candidates for a particular office does not exceed twice the
363 number of offices to be filled at the regular municipal election, no partisan primary election for
364 that office shall be held and the candidates are considered to be nominated.

365 (ii) If the number of candidates for a particular office exceeds twice the number of
366 offices to be filled at the regular municipal election, those candidates for municipal office shall
367 be nominated at a partisan primary election.

368 (d) The clerk shall ensure that:

- 369 (i) the partisan municipal primary ballot is similar to the ballot forms required by
370 Sections 20A-6-401 and 20A-6-401.1;
- 371 (ii) the candidates for each municipal political party are listed in one or more columns
372 under their party name and emblem;
- 373 (iii) the names of candidates of all parties are printed on the same ballot, but under
374 their party designation;
- 375 (iv) every ballot is folded and perforated so as to separate the candidates of one party
376 from those of the other parties and so as to enable the elector to separate the part of the ballot
377 containing the names of the party of his choice from the remainder of the ballot; and
- 378 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,
379 when detached, are similar in appearance to inside sections when detached.
- 380 (e) After marking a municipal primary ballot, the voter shall:
- 381 (i) detach the part of the ballot containing the names of the candidates of the party he
382 has voted from the rest of the ballot;
- 383 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;
384 and
- 385 (iii) fold the remainder of the ballot containing the names of the candidates of the
386 parties for whom the elector did not vote and deposit it in the blank ballot box.
- 387 (f) Immediately after the canvass, the election judges shall, without examination,
388 destroy the tickets deposited in the blank ballot box.
- 389 Section 6. Section 53A-2-118 is amended to read:
- 390 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**
391 **to be followed.**
- 392 (1) A new school district may be created from one or more existing school districts, as
393 provided in this section.
- 394 (2) (a) The process to create a new school district may be initiated:
- 395 (i) through a citizens' initiative petition;
- 396 (ii) at the request of the board of the existing district or districts to be affected by the
397 creation of the new district; or
- 398 (iii) at the request of a city within the boundaries of the school district or at the request
399 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

400 (b) (i) ~~[Each]~~ An initiative petition submitted under Subsection (2)(a)(i) shall be signed
401 by qualified electors residing within the geographical boundaries of the proposed new school
402 district equal ~~[in number]~~ to at least 15% of ~~[the number of electors in the area who voted for~~
403 ~~the office of governor]~~ all votes cast within the geographic boundaries of the proposed new
404 school district for all candidates for president of the United States at the last regular general
405 election at which a president of the United States was elected.

406 (ii) Each request or petition submitted under Subsection (2)(a) shall:

407 (A) be filed with the clerk of each county in which any part of the proposed new school
408 district is located;

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

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

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

415 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,
416 reinstate the signer's signature at any time before the filing of the petition by filing a written
417 withdrawal or reinstatement with the county clerk.

418 (d) The process under Subsection (2)(a)(i) may only be initiated once during any
419 four-year period.

420 (e) A new district may not be formed pursuant to Subsection (2)(a) if the student
421 population of the proposed new district is less than 3,000 or the existing district's student
422 population would be less than 3,000 because of the creation of the new school district.

423 (f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five
424 business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each
425 county with which a request or petition is filed shall:

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

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

430 (I) certify the request or petition and deliver the certified request or petition to the

431 county legislative body; and

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

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

436 (g) If the county clerk fails to certify or reject a request or petition within the time
437 specified in Subsection (2)(f), the request or petition shall be considered to be certified.

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

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

442 (i) If a county legislative body receives a request from a school board under Subsection
443 (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or
444 before December 1:

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

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

449 (iii) if the legislative body of each county with which a request or petition is filed
450 approves a proposal to create a new district, the proposal shall be submitted to the respective
451 county clerk to be voted on by the electors of each existing district at the regular general or
452 municipal general election held in November.

453 (3) (a) The legislative body of each county with which a request or petition is filed
454 shall appoint an ad hoc advisory committee to review and make recommendations on a request
455 for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

456 (b) The advisory committee shall:

457 (i) seek input from:

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

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

460 (C) those citizens residing within the geographical boundaries of each existing school
461 district;

462 (D) the State Board of Education; and
463 (E) other interested parties;
464 (ii) review data and gather information on at least:
465 (A) the financial viability of the proposed new school district;
466 (B) the proposal's financial impact on each existing school district;
467 (C) the exact placement of school district boundaries; and
468 (D) the positive and negative effects of creating a new school district and whether the
469 positive effects outweigh the negative if a new school district were to be created; and
470 (iii) make a report to the county legislative body in a public meeting on the committee's
471 activities, together with a recommendation on whether to create a new school district.
472 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
473 (a) The county legislative body shall provide for a 45-day public comment period on
474 the report and recommendation to begin on the day the report is given under Subsection
475 (3)(b)(iii).
476 (b) Within 14 days after the end of the comment period, the legislative body of each
477 county with which a request or petition is filed shall vote on the creation of the proposed new
478 school district.
479 (c) The proposal is approved if a majority of the members of the legislative body of
480 each county with which a request or petition is filed votes in favor of the proposal.
481 (d) If the proposal is approved, the legislative body of each county with which a
482 request or petition is filed shall submit the proposal to the county clerk to be voted on:
483 (i) by the legal voters of each existing school district;
484 (ii) in accordance with the procedures and requirements applicable to a regular general
485 election under Title 20A, Election Code; and
486 (iii) at the next regular general election or municipal general election, whichever is
487 first.
488 (e) Creation of the new school district shall occur if a majority of the electors within
489 both the proposed school district and each remaining school district voting on the proposal vote
490 in favor of the creation of the new district.
491 (f) Each county legislative body shall comply with the requirements of Section
492 [53A-2-101.5](#).

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

496 (5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection
497 (2)(f) or (g), the legislative body of each county in which part of the proposed new school
498 district is located shall submit the proposal to the respective clerk of each county to be voted
499 on:

- 500 (i) by the legal voters residing within the proposed new school district boundaries;
- 501 (ii) in accordance with the procedures and requirements applicable to a regular general
502 election under Title 20A, Election Code; and
- 503 (iii) at the next regular general election or municipal general election, whichever is
504 first.

505 (b) (i) If a majority of the legal voters within the proposed new school district
506 boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the
507 creation of the new district:

508 (A) each county legislative body shall comply with the requirements of Section
509 [53A-2-101.5](#); and

510 (B) upon the lieutenant governor's issuance of the certificate under Section [67-1a-6.5](#),
511 the new district is created.

512 (ii) Notwithstanding the creation of a new district as provided in Subsection
513 (5)(b)(i)(B):

514 (A) a new school district may not begin to provide educational services to the area
515 within the new district until July 1 of the second calendar year following the school board
516 general election date described in Subsection [53A-2-118.1\(3\)\(a\)\(i\)](#);

517 (B) a remaining district may not begin to provide educational services to the area
518 within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

519 (C) each existing district shall continue, until the time specified in Subsection
520 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
521 district.

Legislative Review Note
Office of Legislative Research and General Counsel