

Representative Craig Hall proposes the following substitute bill:

SCHOOL DISTRICT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that, under certain circumstances, 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%; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-2-117, as last amended by Laws of Utah 2011, Chapters 300 and 369



26 [53A-2-118](#), as last amended by Laws of Utah 2010, Chapter 230
27 [53A-2-118.1](#), as last amended by Laws of Utah 2011, Chapter 300
28 [53A-2-120](#), as last amended by Laws of Utah 2011, Chapter 295

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

31 Section 1. Section [53A-2-117](#) is amended to read:

32 **[53A-2-117](#). Definitions.**

33 As used in Sections [53A-2-117](#) through [53A-2-122](#), except Section [53A-2-118.4](#):

34 (1) "Allocation date" means:

35 (a) June 30 of the second calendar year after the local school board general election
36 date described in Subsection [53A-2-118.1](#)[(3)](5)(a)(i); or

37 (b) another date that the transition teams under Section [53A-2-118.1](#) mutually agree to.

38 (2) "Canvass date" means the date of the canvass of an election under Subsection
39 [53A-2-118\(5\)](#) at which voters approve the creation of a new school district under Section
40 [53A-2-118.1](#).

41 (3) "Creation election date" means the date of the election under Subsection
42 [53A-2-118\(5\)](#) at which voters approve the creation of a new school district under Section
43 [53A-2-118.1](#).

44 (4) "Divided school district, "existing district," or "existing school district" means a
45 school district from which a new district is created.

46 (5) "New district" or "new school district" means a school district created under
47 Section [53A-2-118](#) or [53A-2-118.1](#).

48 (6) "Remaining district" or "remaining school district" means an existing district after
49 the creation of a new district.

50 Section 2. Section [53A-2-118](#) is amended to read:

51 **[53A-2-118](#). Creation of new school district -- Initiation of process -- Procedures
52 to be followed.**

53 (1) A new school district may be created from one or more existing school districts, as
54 provided in this section.

55 (2) (a) The process to create a new school district may be initiated:

56 (i) through a citizens' initiative petition;

57 (ii) at the request of the board of the existing district or districts to be affected by the
58 creation of the new district; or

59 (iii) at the request of a city within the boundaries of the school district or at the request
60 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

61 (b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified
62 electors residing within the geographical boundaries of the proposed new school district equal
63 in number to at least 15% of the number of electors in the area who voted for the office of
64 governor at the last regular general election.

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

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

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

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

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

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

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

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

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

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

87 (ii) (A) if the county clerk determines that the request or petition complies with the

88 applicable requirements:

89 (I) certify the request or petition and deliver the certified request or petition to the
90 county legislative body; and

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

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

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

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

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

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

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

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

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

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

115 (b) The advisory committee shall:

116 (i) seek input from:

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

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

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

121 (D) the State Board of Education; and

122 (E) other interested parties;

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

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

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

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

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

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

131 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

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

135 (b) Within 14 days after the end of the comment period, the legislative body of each
136 county with which a request or petition is filed shall vote on the creation of the proposed new
137 school district.

138 (c) The proposal is approved if a majority of the members of the legislative body of
139 each county with which a request or petition is filed votes in favor of the proposal.

140 (d) If the proposal is approved, the legislative body of each county with which a
141 request or petition is filed shall submit the proposal to the county clerk to be voted on:

142 (i) by the legal voters of each existing school district;

143 (ii) in accordance with the procedures and requirements applicable to a regular general
144 election under Title 20A, Election Code; and

145 (iii) at the next regular general election or municipal general election, whichever is
146 first.

147 (e) Creation of the new school district shall occur if a majority of the electors within
148 both the proposed school district and each remaining school district voting on the proposal vote
149 in favor of the creation of the new district.

150 (f) Each county legislative body shall comply with the requirements of Section
151 53A-2-101.5.

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

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

159 (i) by the legal voters residing within the proposed new school district boundaries;
160 (ii) in accordance with the procedures and requirements applicable to a regular general
161 election under Title 20A, Election Code; and

162 (iii) at the next regular general election or municipal general election, whichever is
163 first.

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

167 (A) each county legislative body shall comply with the requirements of Section
168 53A-2-101.5; and

169 (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5,
170 the new district is created.

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

173 (A) a new school district may not begin to provide educational services to the area
174 within the new district until July 1 of the second calendar year following the school board
175 general election date described in Subsection 53A-2-118.1~~(3)~~(5)(a)(i);

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

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

181 Section 3. Section 53A-2-118.1 is amended to read:

182 **53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to**
 183 **create a school district -- Boundaries -- Election of local school board members --**
 184 **Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

185 (1) As used in this section a "qualifying city" means a city with a population of at least
 186 50,000, as determined by the lieutenant governor using the process described in Subsection
 187 67-1a-2(3).

188 ~~[(+)] (2) (a) [After conducting a feasibility study, a city with a population of at least~~
 189 ~~50,000, as determined by the lieutenant governor using the process described in Subsection~~
 190 ~~67-1a-2(3);] A qualifying city may, by majority vote of the legislative body, submit for voter~~
 191 ~~approval a [measure] proposal to create a new school district with boundaries contiguous with~~
 192 ~~that city's boundaries, in accordance with Section 53A-2-118.~~

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

195 (c) Except as provided in Subsection (2)(d), a qualifying city may not submit for voter
 196 approval a proposal to create a new school district if the results of a feasibility study described
 197 in Subsection (2)(b) show that the five-year projected average annual revenue calculated under
 198 Subsection (4)(a) exceeds the five-year projected average annual cost under Subsection (4)(b)
 199 by more than 5%.

200 (d) Subsection (2)(c) does not apply to a proposal submitted by a qualifying city if the
 201 qualifying city has entered into an interlocal cooperation agreement:

202 (i) ~~H~~→ [(A)] ←~~H~~ with the existing school district and all municipalities within the
 202a existing school

203 district regarding mutual goals for the governance of the school district; and

204 ~~H~~→ [(B)] (ii) ←~~H~~ in accordance with Title 11, Chapter 13, Interlocal Cooperation Act
 204a ~~H~~→ [; and

205 —— (ii) on or before January 1, 2016] ←~~H~~ .

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

209 (ii) An inadequacy of a feasibility study under Subsection [(+)(a)] (4) may not be the
 210 basis of a legal action or other challenge to:

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

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

213 ~~[(2)]~~ (3) (a) By majority vote of the legislative body, a city of any class, a town, or a
214 county, may, together with one or more other cities, towns, or the county enter into an
215 interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for
216 the purpose of submitting for voter approval a ~~[measure]~~ proposal to create a new school
217 district.

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

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

222 (B) except as provided in Subsection (3)(b)(ii), the results of the feasibility study
223 described in Subsection (3)(b)(i)(A) show that the five-year projected average annual revenue
224 calculated under Subsection (4)(a) does not exceed the five-year projected average annual cost
225 calculated under Subsection (4)(b) by more than 5%;

226 ~~[(B)]~~ (C) the combined population within the proposed new school district boundaries
227 is at least 50,000;

228 ~~[(C)]~~ (D) the new school district boundaries:

229 (I) are contiguous;

230 (II) do not completely surround or otherwise completely geographically isolate a
231 portion of an existing school district that is not part of the proposed new school district from
232 the remaining part of that existing school district, except as provided in Subsection ~~[(2)]~~
233 (3)(d)(iii);

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

236 (IV) subject to Subsection ~~[(2)]~~ (3)(b)~~[(ii)]~~(v), do not cross county lines; and

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

240 (ii) Subsection (3)(b)(i)(B) does not apply to a proposal submitted by interlocal
241 agreement participants if the interlocal agreement participants have entered into an interlocal
242 cooperation agreement:

243 (A) ~~Ĥ~~ ~~→~~ ~~[(Ĥ)]~~ ~~←~~ ~~Ĥ~~ with the existing school district and all municipalities within the
 243a existing school
 244 district regarding mutual goals for the governance of the school district; and
 245 ~~Ĥ~~ ~~→~~ ~~[(Ĥ)]~~ ~~(B)~~ ~~←~~ ~~Ĥ~~ in accordance with Title 11, Chapter 13, Interlocal Cooperation Act
 245a ~~Ĥ~~ ~~→~~ ~~;~~ ~~and~~
 246 ~~————~~ ~~(B)~~ ~~on or before January 1, 2016~~ ~~]~~ ~~←~~ ~~Ĥ~~ ~~.~~
 247 ~~[(ii) The]~~ ~~(iii)~~ Subject to Subsections (3)(b)(i)(A) and (4), the determination of all
 248 matters relating to the scope, adequacy, and other aspects of a feasibility study [under
 249 Subsection (2)(b)(i)(A)], including whether to conduct a new feasibility study or revise a
 250 previous feasibility study due to a change in the proposed new school district boundaries, is
 251 within the exclusive discretion of the legislative bodies of the interlocal agreement participants
 252 that enter into an interlocal agreement to submit for voter approval a measure to create a new
 253 school district.
 254 ~~[(iii)]~~ ~~(iv)~~ An inadequacy of a feasibility study under Subsection [(2)(b)(i)(A)] (4) may
 255 not be the basis of a legal action or other challenge to:
 256 (A) an election for voter approval of the creation of a new school district; or
 257 (B) the creation of the new school district.
 258 ~~[(iv)]~~ ~~(v)~~ For purposes of determining whether the boundaries of a proposed new
 259 school district cross county lines under Subsection [(2)(b)(i)(C)(IV)] (3)(b)(i)(D)(IV):
 260 (A) a municipality located in more than one county and entirely within the boundaries
 261 of a single school district is considered to be entirely within the same county as other
 262 participants in an interlocal agreement under Subsection [(2)] (3)(a) if more of the
 263 municipality's land area and population is located in that same county than outside the county;
 264 and
 265 (B) a municipality located in more than one county that participates in an interlocal
 266 agreement under Subsection [(2)] (3)(a) with respect to some but not all of the area within the
 267 municipality's boundaries on the basis of the exception stated in Subsection [(2)] (3)(d)(ii)(B)
 268 may not be considered to cross county lines.
 269 (c) (i) A county may only participate in an interlocal agreement under this Subsection
 270 [(2)] (3) for the unincorporated areas of the county.
 271 (ii) Boundaries of a new school district created under this section may include:
 272 (A) a portion of one or more existing school districts; and
 273 (B) a portion of the unincorporated area of a county, including a portion of a township.

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

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

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

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

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

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

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

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

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

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

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

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

304 (III) 90 days after a request under Subsection [~~(2)~~] (3)(d)(iii)(A)(II) is submitted, the

305 municipality has not entered into an interlocal agreement as requested in the request.

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

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

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

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

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

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

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

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

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

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

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

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

334 (i) operation and maintenance;

335 (ii) capital outlay;

336 (iii) debt service; and
337 (iv) school lunch;
338 (c) assumes a level and quality of school district services to be provided to the
339 proposed new school district in the future that fairly and reasonably approximates the level and
340 quality of school district services being provided to the existing school district at the time of
341 the feasibility study; and

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

344 [~~3~~] (5) (a) If a proposal under this section is approved by voters:

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

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

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

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

350 (ii) the assets and liabilities of the existing school district shall be divided between the
351 remaining school district and the new school district as provided in Subsection [~~5~~] (7) and
352 Section 53A-2-121;

353 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
354 53A-2-122;

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

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

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

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

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

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

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

378 (iii) Notwithstanding the existence of a local school board for the new district and a
379 local school board for the remaining district under Subsection [~~(3)~~] (5)(a)(i), the local school
380 board of the existing district shall continue, until the time specified in Subsection
381 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent
382 necessary to continue to provide educational services to the entire existing district.

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

385 (A) a new district; or

386 (B) a remaining district.

387 [~~(4)~~] (6) (a) Within 45 days after the canvass date for the election at which voters
388 approve the creation of a new district:

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

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

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

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

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

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

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

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

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

404 (B) liabilities; and

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

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

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

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

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

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

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

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

416 (d) The transition teams shall determine the allocation under Subsection [~~4~~] (6)(c)(i)
417 and deliver the report required under Subsection [~~4~~] (6)(c)(ii) before August 1 of the year
418 following the election at which voters approve the creation of a new district, unless that
419 deadline is extended by the mutual agreement of:

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

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

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

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

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

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

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

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

435 (A) transition team costs and expenses; and

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

438 ~~[(5)]~~ (7) (a) As used in this Subsection ~~[(5)]~~ (7):

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

441 (ii) (A) "Discretionary asset or liability" means, except as provided in Subsection ~~[(5)]~~
442 (7)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or
443 employee by law or school district accounting practice.

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

446 (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection
447 ~~[(5)]~~ (7)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or
448 employee by law or school district accounting practice.

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

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

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

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

459 (ii) a discretionary asset or liability shall be allocated between the new district and

460 remaining district in proportion to the student populations of the school districts;

461 (iii) a nondiscretionary asset shall be allocated to the school district where the project,

462 school, student, or employee to which the nondiscretionary asset is tied will be located;

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

464 (A) according to the transportation needs of schools, as measured by the number and

465 assortment of vehicles used to serve transportation routes serving schools within the new

466 district and remaining district; and

467 (B) in a manner that gives each school district a fleet of vehicles for pupil

468 transportation that is equivalent in terms of age, condition, and variety of carrying capacities;

469 and

470 (v) other vehicles shall be allocated:

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

472 (B) in a manner that gives each district a fleet of vehicles that is similar in terms of age,

473 condition, and carrying capacities.

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

475 manner different than the allocation method specified in Subsection [~~(5)~~] (7)(b).

476 [~~(6)~~] (8) (a) As used in this Subsection [~~(6)~~] (8):

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

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

479 educational services on July 1 of the second calendar year following the local school board

480 general election date described in Subsection [~~(3)~~] (5)(a)(i); and

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

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

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

484 (I) make necessary adjustments to deal with the impacts resulting from the creation of

485 the new district; and

486 (II) prepare to provide educational services within the remaining district once the new

487 district begins providing educational services within the new district; and

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

489 (b) (i) By January 1 of the year following the local school board general election date

490 described in Subsection [~~(3)~~] (5)(a)(i), the existing district shall make half of the undistributed

491 reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the
492 remaining district and the new district, as provided in this Subsection [~~(6)~~] (8).

493 (ii) The existing district may make additional funds available for the use of the
494 remaining district and the new district beyond the amount specified in Subsection [~~(6)~~] (8)(b)(i)
495 through an interlocal agreement.

496 (c) The existing district shall make the money under Subsection [~~(6)~~] (8)(b) available
497 to the remaining district and the new district proportionately based on student population.

498 (d) The money made available under Subsection [~~(6)~~] (8)(b) may be accessed and spent
499 by:

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

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

502 (e) (i) The remaining district may use its portion of the money made available under
503 Subsection [~~(6)~~] (8)(b) to pay for remaining district startup costs.

504 (ii) The new district may use its portion of the money made available under Subsection
505 [~~(6)~~] (8)(b) to pay for new district startup costs.

506 [~~(7)~~] (9) (a) The existing district shall transfer title or, if applicable, partial title of
507 property to the new school district in accordance with the allocation of property by the
508 transition teams, as stated in the report under Subsection [~~(4)~~] (6)(c)(ii).

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

513 (i) the local school board of the existing district;

514 (ii) the local school board of the remaining district; and

515 (iii) the local school board of the new district.

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

519 [~~(8)~~] (10) Except as provided in Subsections [~~(6)~~] (8) and [~~(7)~~] (9), after the creation
520 election date an existing school district may not transfer or agree to transfer title to district
521 property without the prior consent of:

522 (a) the legislative body of the city in which the new district is located, for a new district
523 located entirely within a single city; or

524 (b) the legislative bodies of all interlocal agreement participants, for each other new
525 district.

526 [~~(9)~~] (11) This section does not apply to the creation of a new district initiated through
527 a citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

528 Section 4. Section 53A-2-120 is amended to read:

529 **53A-2-120. Transfer of school property to new school district.**

530 (1) (a) (i) On July 1 of the year following the school board elections for a new district
531 created pursuant to a citizens' initiative petition or school board request under Section
532 53A-2-118 and an existing district as provided in Section 53A-2-119, the board of the existing
533 district shall convey and deliver to the board of the new district all school property which the
534 new district is entitled to receive.

535 (ii) Any disagreements as to the disposition of school property shall be resolved by the
536 county legislative body.

537 (iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams
538 about the proper allocation of property under Subsection 53A-2-118.1[~~(4)~~](6).

539 (b) An existing district shall transfer property to a new district created under Section
540 53A-2-118.1 in accordance with Section 53A-2-118.1.

541 (2) Title vests in the new school board, including all rights, claims, and causes of
542 action to or for the property, for the use or the income from the property, for conversion,
543 disposition, or withholding of the property, or for any damage or injury to the property.

544 (3) The new school board may bring and maintain actions to recover, protect, and
545 preserve the property and rights of the district's schools and to enforce contracts.