LEGISLATIVE GENERAL COUNSEL
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S.B. 3001

UTAH STATE SENATE BOUNDARIES AND ELECTION DESIGNATION

2011 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Kenneth W. Sumsion

LONG TITLE

Redistricting Boundary Information:

The Utah State Senate district boundary information may be found at http://le.utah.gov.

Block assignment file security code: 011dac663aa2b05ea7d7d6c3e2c43c94

General Description:

This bill, which includes this printed text and the electronic data affiliated with it, establishes new Utah State Senate district boundaries and makes other technical corrections.

Highlighted Provisions:

This bill:

- repeals current Utah State Senate district boundaries and establishes new Utah State Senate district boundaries;
- establishes election dates for each Utah State Senate district to ensure that Senate terms are staggered;
- establishes the block assignment file, which is part of this bill in electronic form, as the legal boundaries of Utah State Senate districts; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

S.B. 3001

28 This bill takes effect on January 1, 2012, for purposes of nominating and electing
29 certain members of the Utah State Senate and on January 1, 2013, for all other
30 purposes.
31 **Utah Code Sections Affected:**
32 AMENDS:
33 **36-1-102**, as enacted by Laws of Utah 2001, Second Special Session, Chapter 5
34 **36-1-103**, as last amended by Laws of Utah 2011, Chapter 74
35 **36-1-103.2**, as enacted by Laws of Utah 2011, Chapter 74
36 **36-1-104**, as enacted by Laws of Utah 2001, Second Special Session, Chapter 5
37 **36-1-105**, as last amended by Laws of Utah 2005, Chapter 169
38 ENACTS:
39 **36-1-101.1**, Utah Code Annotated 1953
40 **36-1-101.5**, Utah Code Annotated 1953
41 REPEALS:
42 **36-1-101**, as last amended by Laws of Utah 2011, Chapter 74
43
44 *Be it enacted by the Legislature of the state of Utah:*
45 Section 1. Section **36-1-101.1** is enacted to read:
46 **36-1-101.1. Definitions.**
47 As used in this section:
48 (1) "Census block" means any one of the 115, 406 individual geographic areas into
49 which the Bureau of the Census of the United States Department of Commerce has divided the
50 state of Utah, to each of which the Bureau of the Census has attached a discrete population
51 tabulation from the 2010 decennial census.
52 (2) "Senate block assignment file" means the electronic file that assigns each of Utah's
53 115, 406 census blocks to a particular Utah State Senate district.
54 Section 2. Section **36-1-101.5** is enacted to read:
55 **36-1-101.5. Utah State Senate -- District boundaries.**
56 (1) The Utah State Senate shall consist of 29 members, with one member to be elected
57 from each Utah State Senate district.
58 (2) The Legislature adopts the official census population figures and maps of the

59 Bureau of the Census of the United States Department of Commerce developed in connection
60 with the taking of the 2010 national decennial census as the official data for establishing Senate
61 district boundaries.
62 (3) (a) The Legislature enacts the numbers and boundaries of the Senate districts
63 designated in the Senate block assignment file that is the electronic component of the bill that
64 enacts this section.
65 (b) That Senate block assignment file, and the Senate district boundaries generated
66 from that Senate block assignment file, may be accessed via the Utah Legislature's website.
67 Section 3. Section **36-1-102** is amended to read:
68 **36-1-102. Election of senators -- Staggered terms.**
69 (1) Unless otherwise provided by law, each senator elected from Senate Districts [~~1, 6,~~
70 ~~8, 10, 13, 14, 16, 19, 20, 23, 24, 25, 27, and 29~~] 2, 3, 5, 9, 11, 12, 15, 17, 18, 21, 22, and 26 at
71 the [~~2000~~] 2010 General Election shall serve out the term of office for which he or she was
72 elected and shall represent the realigned district if he or she resides in that district.
73 (2) At the general election to be held in [~~2002~~] 2012, senators elected from Senate
74 Districts [~~2, 3, 4, 5, 7, 9, 11, 12, 15, 17, 18, 21, 22, 26, and 28~~] 1, 6, 7, 8, 10, 13, 14, 16, 19, 20,
75 23, 24, 25, 27, and 29 shall be elected to serve a term of office of four years.
76 (3) (a) Because the senator from Senate District 28 was appointed to fill a mid-term
77 vacancy that occurred more than two years before the next regular general election, Subsection
78 20A-1-503(3) requires that the vacancy be filled for the unexpired term at the next general
79 election.
80 (b) Consequently:
81 (i) at the general election to be held in 2012, the senator elected from Senate District 28
82 shall be elected to serve a term of office of two years; and
83 (ii) at the general election to be held in 2014, the senator elected from Senate District
84 28 shall be elected to serve a term of office of four years.
85 (4) (a) If one of the incumbent senators from new Senate District 4 files written notice
86 with the lieutenant governor by close of business on January 3, 2012, that the senator will not
87 seek election to the Senate from that Senate District 4, that incumbent senator may serve until
88 January 1, 2013, and the other incumbent senator from District 4 shall serve out the term for
89 which the member was elected, which is until January 1, 2015.

90 (b) (i) If one of the incumbent senators in Senate District 4 does not file the written
91 notice authorized by Subsection (4)(a), the lieutenant governor shall designate Senate District 4
92 as an office to be filled in the 2012 regular general election in the notice of election required by
93 Section 20A-5-101.
94 (ii) If the Subsection (4)(b)(i) contingency occurs:
95 (A) the senator elected from Senate District 4 at the 2012 regular general election shall
96 be elected to serve a term of office of two years; and
97 (B) the senator elected from Senate District 4 at the 2014 regular general election shall
98 be elected to serve a term of office of four years.
99 Section 4. Section **36-1-103** is amended to read:
100 **36-1-103. Senate districts -- Copies -- Legal boundaries.**
101 (1) (a) The Legislature shall file [~~copies of the official maps~~] a copy of the Senate
102 block assignment file enacted by the Legislature[~~, and any other relevant data,~~] with the
103 lieutenant governor's office.
104 (b) [~~Except as provided in Subsection (2), the~~] The legal boundaries of Senate districts
105 are contained in the [~~official maps~~] Senate block assignment file on file with the lieutenant
106 governor's office.
107 [~~(2) (a) Because of the new county boundary separating Salt Lake County and Utah~~
108 ~~County, the boundary separating Senate District 9 and Senate District 11 that followed the old~~
109 ~~county boundary is changed to follow the new county boundary eastward from the~~
110 ~~southwestern intersection to the point where the existing boundary of Senate District 9 turns~~
111 ~~north from the old county boundary.~~]
112 [~~(b) The following census blocks from the 2000 census are removed from Senate~~
113 ~~District 11 and placed into Senate District 14: Census Tract 010205, Blocks 1000, 1001, 3001,~~
114 ~~3003, and 3004.~~]
115 [~~(3) When questions of interpretation of Senate district boundaries arise, the official~~
116 ~~maps on file in the lieutenant governor's office shall serve as the indication of the legislative~~
117 ~~intent in drawing the Senate district boundaries.~~]
118 [~~(4) Maps identifying the boundaries for Senate districts may be viewed on the Internet~~
119 ~~at the lieutenant governor's website.~~]
120 (2) (a) The lieutenant governor shall:

121 (i) generate maps of each Utah State Senate district from the Senate block assignment
122 file; and
123 (ii) ensure that those maps are available for viewing on the lieutenant governor's
124 website.
125 (b) If there is any inconsistency between the maps and the Senate block assignment
126 file, the Senate block assignment file is controlling.
127 Section 5. Section **36-1-103.2** is amended to read:
128 **36-1-103.2. County clerk, Automated Geographic Reference Center, and**
129 **lieutenant governor responsibilities -- Maps and voting precinct boundaries.**
130 (1) Each county clerk shall obtain [~~copies of the official maps~~] a copy of the Senate
131 block assignment file for the clerk's county from the lieutenant governor's office.
132 (2) (a) A county clerk may create one or more county maps that identify the boundaries
133 of Senate districts as [~~shown on the official maps~~] generated from the Senate block assignment
134 file.
135 (b) Before publishing or distributing any map or data created by the county clerk that
136 identifies the boundaries of Senate districts within the county, the clerk shall submit the county
137 map and data to the lieutenant governor and to the Automated Geographic Reference Center for
138 review.
139 (c) Within 30 days after receipt of a county map and data from a county clerk, the
140 Automated Geographic Reference Center shall:
141 (i) review the county map and data to evaluate if the county map and data accurately
142 reflect the boundaries of Senate districts established by the Legislature in the [~~official maps~~]
143 Senate block assignment file;
144 (ii) determine whether the county map and data are correct or incorrect; and
145 (iii) communicate those findings to the lieutenant governor.
146 (d) The lieutenant governor shall either notify the county clerk that the county map and
147 data are correct or notify the county clerk that the county map and data are incorrect.
148 (e) If the county clerk receives notice from the lieutenant governor that the county map
149 and data submitted are incorrect, the county clerk shall:
150 (i) make the corrections necessary to conform the county map and data to the [~~official~~
151 ~~maps~~] Senate block assignment file; and

152 (ii) resubmit the corrected county map and data to the lieutenant governor and to the
153 Automated Geographic Reference Center for a new review under this Subsection (2).
154 (3) (a) Subject to the requirements of this Subsection (3), each county clerk shall
155 establish voting precincts and polling places within each Senate district according to the
156 procedures and requirements of Section 20A-5-303.
157 (b) Within five working days after approval of voting precincts and polling places by
158 the county legislative body as required by Section 20A-5-303, each county clerk shall submit a
159 voting precinct map identifying the boundaries of each voting precinct within the county to the
160 lieutenant governor and to the Automated Geographic Reference Center for review.
161 (c) Within 30 days after receipt of a voting precinct map from a county clerk, the
162 Automated Geographic Reference Center shall:
163 (i) review the voting precinct map to evaluate if the [~~county~~] voting precinct map
164 accurately reflects the boundaries of Senate districts established by the Legislature in the
165 [~~official maps~~] Senate block assignment file;
166 (ii) determine whether the voting precinct map is correct or incorrect; and
167 (iii) communicate those findings to the lieutenant governor.
168 (d) The lieutenant governor shall either notify the county clerk that the voting precinct
169 map is correct or notify the county clerk that the map is incorrect.
170 (e) If the county clerk receives notice from the lieutenant governor that the voting
171 precinct map is incorrect, the county clerk shall:
172 (i) make the corrections necessary to conform the voting precinct map to the [~~official~~
173 ~~maps~~] Senate block assignment file; and
174 (ii) resubmit the corrected voting precinct map to the lieutenant governor and to the
175 Automated Geographic Reference Center for a new review under this Subsection (3).
176 Section 6. Section **36-1-104** is amended to read:
177 **36-1-104. Omissions from maps -- How resolved.**
178 (1) If any area of the state is omitted from a Utah State Senate district in the [~~maps~~]
179 Senate block assignment file enacted by the Legislature, the county clerk of the affected
180 county, upon discovery of the omission, shall attach the area to the appropriate Senate district
181 according to the requirements of Subsections (2) and (3).
182 (2) If the omitted area is surrounded by a single Senate district, the county clerk shall

183 attach the area [~~shall be attached~~] to that district.
184 (3) If the omitted area is contiguous to two or more Senate districts, the county clerk
185 shall attach the area [~~shall be attached~~] to the district that has the least population, as
186 determined by the official census population figures and maps [~~of the Bureau of the Census of~~
187 ~~the United States Department of Commerce developed in connection with the taking of the~~
188 ~~2000 2010 national decennial census~~] described in Subsection 36-1-101.5(2).
189 (4) [~~Any attachment~~] The county clerk shall certify in writing and file with the
190 lieutenant governor any attachment made under [~~Subsection (1) shall be certified in writing and~~
191 ~~filed with the lieutenant governor~~] this section.
192 Section 7. Section **36-1-105** is amended to read:
193 **36-1-105. Uncertain boundaries -- How resolved.**
194 (1) As used in this section, "affected party" means:
195 (a) a senator whose Utah State Senate district boundary is uncertain because the
196 [~~identifying feature~~] boundary in the Senate block assignment file used to establish the Senate
197 district boundary has been removed, modified, or is unable to be identified or who is uncertain
198 about whether or not [~~he~~] the senator or another person resides in a particular Senate district;
199 (b) a candidate for senator whose Senate district boundary is uncertain because the
200 [~~identifying feature~~] boundary in the Senate block assignment file used to establish the Senate
201 district boundary has been removed, modified, or is unable to be identified or who is uncertain
202 about whether or not [~~he~~] the candidate or another person resides in a particular Senate district;
203 or
204 (c) a person who is uncertain about which Senate district contains the person's
205 residence because the [~~identifying feature~~] boundary in the Senate block assignment file used to
206 establish the Senate district boundary has been removed, modified, or is unable to be identified.
207 (2) (a) An affected party may file a written request petitioning the lieutenant governor
208 to determine:
209 (i) the precise location of the Senate district boundary;
210 (ii) the number of the Senate district in which a person resides; or
211 (iii) both Subsections (2)(a)(i) and (ii).
212 (b) In order to make the determination required by Subsection (2)(a), the lieutenant
213 governor shall review the [~~official maps~~] Senate block assignment file and obtain and review

214 other relevant data such as [~~census block and tract descriptions,~~] aerial photographs, aerial
215 maps, or other data about the area.
216 (c) Within five days of receipt of the request, the lieutenant governor shall review the
217 [~~maps~~] Senate block assignment file, obtain and review any relevant data, and make a
218 determination.
219 (d) When the lieutenant governor determines the location of the Senate district
220 boundary, the lieutenant governor shall:
221 (i) prepare a certification identifying the appropriate Senate district boundary and
222 attaching a map, if necessary; and
223 (ii) send a copy of the certification to:
224 (A) the affected party;
225 (B) the county clerk of the affected county; and
226 (C) the Automated Geographic Reference Center created under Section 63F-1-506.
227 (e) If the lieutenant governor determines the number of the Senate district in which a
228 particular person resides, the lieutenant governor shall send a letter identifying that district by
229 number to:
230 (i) the person;
231 (ii) the affected party who filed the petition, if different than the person whose Senate
232 district number was identified; and
233 (iii) the county clerk of the affected county.
234 Section 8. **Repealer.**
235 This bill repeals:
236 Section **36-1-101, Utah State Senate -- District boundaries.**
237 Section 9. **Effective date.**
238 This bill takes effect on January 1, 2012, for purposes of nominating and electing
239 certain members of the Utah State Senate and on January 1, 2013, for all other purposes.

Legislative Review Note
as of 9-30-11 11:53 AM

Office of Legislative Research and General Counsel

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: J.L. Fellows ₵
₵ 09-30-11 4:35 PM ₵

S.B. 3002

CONGRESSIONAL BOUNDARIES DESIGNATION

2011 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Kenneth W. Sumsion

LONG TITLE

The United States Congressional district boundary information may be found at http://le.utah.gov.

Block assignment file security code: fb0a3fae285cadfbbb576a46b4528e85

General Description:

This bill, which includes this printed text and the electronic data affiliated with it, establishes new United States Congressional district boundaries for Utah and makes other technical corrections.

Highlighted Provisions:

This bill:

- repeals current United States Congressional district boundaries for Utah and establishes new United States Congressional district boundaries for Utah;
- establishes the block assignment file that is part of this bill in electronic form as the legal boundaries of United States Congressional district boundaries for Utah; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2012, for purposes of nominating and electing Utah representatives to the United States House of Representatives and on January 1, 2013, for all other purposes.

S.B. 3002

28 **Utah Code Sections Affected:**
29 AMENDS:
30 **20A-13-102**, as last amended by Laws of Utah 2011, Chapter 74
31 **20A-13-102.2**, as enacted by Laws of Utah 2011, Chapter 74
32 **20A-13-103**, as repealed and reenacted by Laws of Utah 2001, Second Special Session,
33 Chapter 6
34 **20A-13-104**, as last amended by Laws of Utah 2005, Chapter 169
35 ENACTS:
36 **20A-13-101.1**, Utah Code Annotated 1953
37 **20A-13-101.5**, Utah Code Annotated 1953
38 REPEALS:
39 **20A-13-101 (Contingently Superseded)**, as last amended by Laws of Utah 2011,
40 Chapter 74
41 **20A-13-101 (Contingently Effective)**, as last amended by Laws of Utah 2007, Chapter
42 97
43
44 *Be it enacted by the Legislature of the state of Utah:*
45 Section 1. Section **20A-13-101.1** is enacted to read:
46 **20A-13-101.1. Definitions.**
47 As used in this section:
48 (1) "Census block" means any one of the 115, 406 individual geographic areas into
49 which the Bureau of the Census of the United States Department of Commerce has divided the
50 state of Utah, to each of which the Bureau of the Census has attached a discrete population
51 tabulation from the 2010 decennial census.
52 (2) "Congressional block assignment file" means the electronic file that assigns each of
53 Utah's 115, 406 census blocks to a particular Congressional district.
54 Section 2. Section **20A-13-101.5** is enacted to read:
55 **20A-13-101.5. Representatives to the United States Congress -- Four**
56 **representative districts -- When elected -- District boundaries.**
57 (1) (a) The state of Utah is divided into four districts for the election of representatives
58 to the Congress of the United States, with one member to be elected from each Congressional

59 district.
60 (b) At the general election to be held in 2012, and biennially thereafter, one
61 representative from each Congressional district shall be elected to serve in the Congress of the
62 United States.
63 (2) The Legislature adopts the official census population figures and maps of the
64 Bureau of the Census of the United States Department of Commerce developed in connection
65 with the taking of the 2010 national decennial census as the official data for establishing
66 Congressional district boundaries.
67 (3) (a) The Legislature enacts the numbers and boundaries of the Congressional
68 districts designated in the Congressional block assignment file that is the electronic component
69 of the bill that enacts this section.
70 (b) That Congressional block assignment file, and Congressional boundaries generated
71 from that Congressional block assignment file, may be accessed via the Utah Legislature's
72 website.
73 Section 3. Section **20A-13-102** is amended to read:
74 **20A-13-102. Congressional districts.**
75 (1) (a) The Legislature shall file [~~copies of the official maps~~] a copy of the
76 Congressional block assignment file enacted by the Legislature[~~, and any other relevant~~
77 ~~materials,~~] with the lieutenant governor's office.
78 (b) [~~Except as provided in Subsection (2), the~~] The legal boundaries of Utah's
79 Congressional districts are contained in the [~~official maps~~] Congressional block assignment file
80 on file with the lieutenant governor's office.
81 [~~(2) The following census blocks from the 2000 census are removed from~~
82 ~~Congressional District 2 and placed into Congressional District 3: Census Tract 010205,~~
83 ~~Blocks 1000, 1001, 3001, 3003, and 3004.~~]
84 [~~(3) When questions of interpretation of Congressional district boundaries arise, the~~
85 ~~official maps on file in the lieutenant governor's office shall serve as the indication of the~~
86 ~~legislative intent in drawing the Congressional district boundaries.~~]
87 [~~(4) Maps identifying the boundaries for Congressional districts may be viewed on the~~
88 ~~Internet at the lieutenant governor's website.~~]
89 (2) (a) The lieutenant governor shall:

90 (i) generate maps of each Congressional district from the Congressional block
91 assignment file; and
92 (ii) ensure that those maps are available for viewing on the lieutenant governor's
93 website.
94 (b) If there is any inconsistency between the maps and the Congressional block
95 assignment file, the Congressional block assignment file is controlling.
96 Section 4. Section **20A-13-102.2** is amended to read:
97 **20A-13-102.2. County clerk, Automated Geographic Reference Center, and**
98 **lieutenant governor responsibilities -- Maps and voting precinct boundaries.**
99 (1) Each county clerk shall obtain [~~copies of the official maps~~] a copy of the
100 Congressional block assignment file for the clerk's county from the lieutenant governor's office.
101 (2) (a) A county clerk may create one or more county maps that identify the boundaries
102 of Utah's Congressional districts as [~~shown on~~] generated from the [~~official maps~~]
103 Congressional block assignment file.
104 (b) Before publishing or distributing any map or data created by the county clerk that
105 identifies the boundaries of Utah's Congressional districts within the county, the county clerk
106 shall submit the county map and data to the lieutenant governor and to the Automated
107 Geographic Reference Center for review.
108 (c) Within 30 days after receipt of a county map and data from a county clerk, the
109 Automated Geographic Reference Center shall:
110 (i) review the county map and data to evaluate if the county map and data accurately
111 reflect the boundaries of Utah's Congressional districts established by the Legislature in the
112 [~~official maps~~] Congressional block assignment file;
113 (ii) determine whether the county map and data are correct or incorrect; and
114 (iii) communicate those findings to the lieutenant governor.
115 (d) The lieutenant governor shall either notify the county clerk that the county map and
116 data are correct or notify the county clerk that the county map and data are incorrect.
117 (e) If the county clerk receives notice from the lieutenant governor that the county map
118 and data submitted are incorrect, the county clerk shall:
119 (i) make the corrections necessary to conform the county map and data to the [~~official~~
120 ~~maps~~] Congressional block assignment file; and

121 (ii) resubmit the corrected county map and data to the lieutenant governor and to the
122 Automated Geographic Reference Center for a new review under this Subsection (2).
123 (3) (a) Subject to the requirements of this Subsection (3), each county clerk shall
124 establish voting precincts and polling places within each Utah Congressional district according
125 to the procedures and requirements of Section 20A-5-303.
126 (b) Within five working days after approval of voting precincts and polling places by
127 the county legislative body as required by Section 20A-5-303, each county clerk shall submit a
128 voting precinct map identifying the boundaries of each voting precinct within the county to the
129 lieutenant governor and to the Automated Geographic Reference Center for review.
130 (c) Within 30 days after receipt of a map from a county clerk, the Automated
131 Geographic Reference Center shall:
132 (i) review the voting precinct map to evaluate if the [~~county~~] voting precinct map
133 accurately reflects the boundaries of Utah's Congressional districts established by the
134 Legislature in the [~~official maps~~] Congressional block assignment file;
135 (ii) determine whether the voting precinct map is correct or incorrect; and
136 (iii) communicate those findings to the lieutenant governor.
137 (d) The lieutenant governor shall either notify the county clerk that the voting precinct
138 map is correct or notify the county clerk that the map is incorrect.
139 (e) If the county clerk receives notice from the lieutenant governor that the voting
140 precinct map is incorrect, the county clerk shall:
141 (i) make the corrections necessary to conform the voting precinct map to the [~~official~~
142 ~~maps~~] Congressional block assignment file; and
143 (ii) resubmit the corrected voting precinct map to the lieutenant governor and to the
144 Automated Geographic Reference Center for a new review under this Subsection (3).
145 Section 5. Section **20A-13-103** is amended to read:
146 **20A-13-103. Omissions from maps -- How resolved.**
147 (1) If any area of the state is omitted from a Congressional district in the [~~maps~~]
148 Congressional block assignment file enacted by the Legislature, the county clerk of the affected
149 county, upon discovery of the omission, shall attach the area to the appropriate Congressional
150 district according to the requirements of Subsections (2) and (3).
151 (2) If the omitted area is surrounded by a single Congressional district, the county clerk

152 shall attach the area [~~shall be attached~~] to that district.

153 (3) If the omitted area is contiguous to two or more Congressional districts, the county
154 clerk shall attach the area [~~shall be attached~~] to the district that has the least population, as
155 determined by the official census population figures and maps [~~of the Bureau of Census of the~~
156 ~~United States Department of Commerce developed in connection with the taking of the 2000~~
157 ~~national decennial census~~] described in Subsection 20A-13-101.5(2).

158 (4) [~~Any attachment~~] The county clerk shall certify in writing and file with the
159 lieutenant governor any attachment made under [~~Subsection (1) shall be certified in writing and~~
160 ~~filed with the lieutenant governor~~] this section.

161 Section 6. Section **20A-13-104** is amended to read:

162 **20A-13-104. Uncertain boundaries -- How resolved.**

163 (1) As used in this section, "affected party" means:

164 (a) a representative whose Congressional district boundary is uncertain because the
165 [~~identifying feature~~] boundary in the Congressional block assignment file used to establish the
166 district boundary has been removed, modified, or is unable to be identified or who is uncertain
167 about whether or not [~~he~~] the representative or another person resides in a particular
168 Congressional district;

169 (b) a candidate for Congressional representative whose Congressional district boundary
170 is uncertain because the [~~identifying feature~~] boundary in the Congressional block assignment
171 file used to establish the district boundary has been removed, modified, or is unable to be
172 identified or who is uncertain about whether or not [~~he~~] the candidate or another person resides
173 in a particular Congressional district; or

174 (c) a person who is uncertain about which Congressional district contains the person's
175 residence because the [~~identifying feature~~] boundary in the Congressional block assignment file
176 used to establish the district boundary has been removed, modified, or is unable to be
177 identified.

178 (2) (a) An affected party may file a written request petitioning the lieutenant governor
179 to determine:

180 (i) the precise location of the Congressional district boundary;

181 (ii) the number of the Congressional district in which a person resides; or

182 (iii) both Subsections (2)(a)(i) and (ii).

183 (b) In order to make the determination required by Subsection (2)(a), the lieutenant
184 governor shall review the [~~official maps~~] Congressional block assignment file and obtain and
185 review other relevant data such as [~~census block and tract descriptions,~~] aerial photographs,
186 aerial maps, or other data about the area.
187 (c) Within five days of receipt of the request, the lieutenant governor shall review the
188 [~~maps~~] Congressional block assignment file, obtain and review any relevant data, and make a
189 determination.
190 (d) When the lieutenant governor determines the location of the Congressional district
191 boundary, the lieutenant governor shall:
192 (i) prepare a certification identifying the appropriate boundary and attaching a map, if
193 necessary; and
194 (ii) send a copy of the certification to:
195 (A) the affected party;
196 (B) the county clerk of the affected county; and
197 (C) the Automated Geographic Reference Center created under Section 63F-1-506.
198 (e) If the lieutenant governor determines the number of the Congressional district in
199 which a particular person resides, the lieutenant governor shall send a letter identifying that
200 district by number to:
201 (i) the person;
202 (ii) the affected party who filed the petition, if different than the person whose
203 Congressional district number was identified; and
204 (iii) the county clerk of the affected county.
205 Section 7. **Repealer.**
206 This bill repeals:
207 Section **20A-13-101 (Contingently Superseded), Representatives to the United**
208 **States Congress -- Three representative districts -- When elected -- District boundaries.**
209 Section **20A-13-101 (Contingently Effective), Representatives to the United States**
210 **Congress -- Four representative districts -- When elected -- District boundaries.**
211 Section 8. **Effective date.**
212 This bill takes effect on January 1, 2012, for purposes of nominating and electing Utah
213 representatives to the United States House of Representatives and on January 1, 2013, for all

214 other purposes.

Legislative Review Note
as of 9-30-11 2:32 PM

Office of Legislative Research and General Counsel

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: S.C. Halverson ₵
₵ 09-23-11 9:50 AM ₵

S.B. 3003

AMENDMENTS TO DRIVER LICENSE SUSPENSION FOR DRIVING UNDER THE INFLUENCE OFFENSES

2011 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE

Committee Note:

The Transportation Interim Committee recommended this bill.

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to the driver license suspension periods for certain driving under the influence offenses.

Highlighted Provisions:

This bill:

- provides that if the Driver License Division determines that a peace officer had reasonable grounds to believe that a person was driving a motor vehicle in violation of certain driving under the influence offenses and the arrest was made on or after July 1, 2009, the Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest, suspend the person's license or permit to operate a motor vehicle:
  - for a period of six months for a first suspension; or
  - until the person is 21 years of age or for a period of two years, whichever is longer, for a second or subsequent suspension for an offense that occurred within the previous 10 years.

Money Appropriated in this Bill:

None

S.B. 3003

28 **Other Special Clauses:**

29 This bill provides an immediate effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-3-223**, as last amended by Laws of Utah 2011, Chapter 312

33

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

35 Section 1. Section **53-3-223** is amended to read:

36 **53-3-223. Chemical test for driving under the influence -- Temporary license --**

37 **Hearing and decision -- Suspension and fee -- Judicial review.**

38 (1) (a) If a peace officer has reasonable grounds to believe that a person may be

39 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a

40 certain blood or breath alcohol concentration and driving under the influence of any drug,

41 alcohol, or combination of a drug and alcohol or while having any measurable controlled

42 substance or metabolite of a controlled substance in the person's body in violation of Section

43 41-6a-517, the peace officer may, in connection with arresting the person, request that the

44 person submit to a chemical test or tests to be administered in compliance with the standards

45 under Section 41-6a-520.

46 (b) In this section, a reference to Section 41-6a-502 includes any similar local

47 ordinance adopted in compliance with Subsection 41-6a-510(1).

48 (2) The peace officer shall advise a person prior to the person's submission to a

49 chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall,

50 and the existence of a blood alcohol content sufficient to render the person incapable of safely

51 driving a motor vehicle may, result in suspension or revocation of the person's license to drive

52 a motor vehicle.

53 (3) If the person submits to a chemical test and the test results indicate a blood or

54 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer

55 makes a determination, based on reasonable grounds, that the person is otherwise in violation

56 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of

57 arrest, give notice of the division's intention to suspend the person's license to drive a motor

58 vehicle.

59 (4) (a) When a peace officer gives notice on behalf of the division, the peace officer
60 shall:
61 (i) take the Utah license certificate or permit, if any, of the driver;
62 (ii) issue a temporary license certificate effective for only 29 days from the date of
63 arrest; and
64 (iii) supply to the driver, in a manner specified by the division, basic information
65 regarding how to obtain a prompt hearing before the division.
66 (b) A citation issued by a peace officer may, if provided in a manner specified by the
67 division, also serve as the temporary license certificate.
68 (5) As a matter of procedure, a peace officer shall send to the division within 10
69 calendar days after the day on which notice is provided:
70 (a) the person's license certificate;
71 (b) a copy of the citation issued for the offense;
72 (c) a signed report in a manner specified by the division indicating the chemical test
73 results, if any; and
74 (d) any other basis for the peace officer's determination that the person has violated
75 Section 41-6a-502 or 41-6a-517.
76 (6) (a) Upon request in a manner specified by the division, the division shall grant to
77 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
78 heard shall be made within 10 calendar days of the day on which notice is provided under
79 Subsection (5).
80 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
81 division in:
82 (A) the county in which the arrest occurred; or
83 (B) a county that is adjacent to the county in which the arrest occurred.
84 (ii) The division may hold a hearing in some other county if the division and the person
85 both agree.
86 (c) The hearing shall be documented and shall cover the issues of:
87 (i) whether a peace officer had reasonable grounds to believe the person was driving a
88 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
89 (ii) whether the person refused to submit to the test; and

90 (iii) the test results, if any.
91 (d) (i) In connection with a hearing the division or its authorized agent:
92 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
93 the production of relevant books and papers; or
94 (B) may issue subpoenas for the attendance of necessary peace officers.
95 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
96 accordance with the rates established in Section 78B-1-119.
97 (e) The division may designate one or more employees to conduct the hearing.
98 (f) Any decision made after a hearing before any designated employee is as valid as if
99 made by the division.
100 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
101 grounds to believe that the person was driving a motor vehicle in violation of Section
102 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
103 notice, or if a hearing is not requested under this section, the division shall:
104 (i) if the person is 21 years of age or older at the time of arrest and the arrest was made
105 on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a
106 period of:
107 (A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or
108 (B) two years beginning on the 30th day after the date of arrest for a second or
109 subsequent suspension for an offense that occurred within the previous 10 years;
110 (ii) if the person is 19 years of age or older but under 21 years of age at the time of
111 arrest and the arrest was made on or after July 1, [~~2011~~] 2009:
112 (A) suspend the person's license or permit to operate a motor vehicle:
113 (I) for a period of six months, beginning on the 30th day after the date of arrest for a
114 first suspension; or
115 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
116 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
117 offense that occurred within the previous 10 years; or
118 (B) deny the person's application for a license or learner's permit:
119 (I) for a period of six months for a first suspension, if the person has not been issued an
120 operator license; or

121 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
122 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
123 offense that occurred within the previous 10 years; or
124 (iii) if the person is under 19 years of age at the time of arrest and the arrest was made
125 on or after July 1, 2009:
126 (A) suspend the person's license or permit to operate a motor vehicle:
127 (I) for a period of two years beginning on the 30th day after the date of arrest for a first
128 suspension; or
129 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
130 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
131 offense that occurred within the previous 10 years; or
132 (B) deny the person's application for a license or learner's permit:
133 (I) for a period of two years for a first suspension, if the person has not been issued an
134 operator license; or
135 (II) until the person is 21 years of age or for a period of two years, whichever is longer,
136 beginning on the 30th day after the date of arrest for a second or subsequent suspension for an
137 offense that occurred within the previous 10 years.
138 (b) The division shall deny or suspend a person's license for the denial and suspension
139 periods in effect:
140 (i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009; or
141 (ii) from July 1, 2009, through June 30, 2011, if:
142 (A) the person was 20 years 6 months of age or older but under 21 years of age at the
143 time of arrest; and
144 (B) the conviction under Subsection (2) is for an offense that was committed on or
145 after July 1, 2009, and prior to July 1, 2011.
146 (c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
147 reinstate a person's license prior to completion of the 120 day suspension period imposed under
148 Subsection (7)(a)(i)(A):
149 (A) immediately upon receiving written verification of the person's dismissal of a
150 charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received
151 prior to completion of the suspension period; or

152 (B) no sooner than 60 days beginning on the 30th day after the date of arrest upon
153 receiving written verification of the person's reduction of a charge for a violation of Section
154 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the
155 suspension period.
156 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division
157 shall reinstate a person's license prior to completion of the 120-day suspension period imposed
158 under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's
159 conviction of impaired driving under Section 41-6a-502.5 if:
160 (A) the written verification is received prior to completion of the suspension period;
161 and
162 (B) the reporting court notifies the Driver License Division that the defendant is
163 participating in or has successfully completed the program of a driving under the influence
164 court as defined in Section 41-6a-501.
165 (iii) If a person's license is reinstated under this Subsection (7)(c), the person is
166 required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).
167 (iv) The driver license reinstatements authorized under this Subsection (7)(c) only
168 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).
169 (8) (a) The division shall assess against a person, in addition to any fee imposed under
170 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover
171 administrative costs, which shall be paid before the person's driving privilege is reinstated.
172 This fee shall be cancelled if the person obtains an unappealed division hearing or court
173 decision that the suspension was not proper.
174 (b) A person whose license has been suspended by the division under this section
175 following an administrative hearing may file a petition within 30 days after the suspension for a
176 hearing on the matter which, if held, is governed by Section 53-3-224.
177 Section 2. **Effective date.**
178 <u>If approved by two-thirds of all the members elected to each house, this bill takes effect</u>
179 <u>upon approval by the governor, or the day following the constitutional time limit of Utah</u>
180 <u>Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,</u>
181 <u>the date of veto override.</u>

Legislative Review Note
as of 9-21-11 6:29 PM

Office of Legislative Research and General Counsel

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: J.L. Fellows ₵
₵ 09-30-11 4:46 PM ₵

H.B. 3001

UTAH STATE HOUSE BOUNDARIES DESIGNATION

2011 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: Ralph Okerlund

LONG TITLE

Redistricting Boundary Information:

The Utah State House district boundary information may be found at http://le.utah.gov.

Block assignment file security code: b8d84ca26f5beaddc5d236a0449fe1ca

General Description:

This bill, which includes this printed text and the electronic data affiliated with it, establishes new Utah State House district boundaries and makes other technical corrections.

Highlighted Provisions:

This bill:

- repeals current Utah State House boundaries and establishes new Utah State House boundaries;
- establishes the block assignment file that is part of this bill in electronic form as the legal boundaries of Utah State House districts; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2012, for purposes of nominating and electing members of the Utah State House and on January 1, 2013, for all other purposes.

Utah Code Sections Affected:

H.B. 3001

28 AMENDS:
29 **36-1-202**, as last amended by Laws of Utah 2011, Chapter 74
30 **36-1-202.2**, as enacted by Laws of Utah 2011, Chapter 74
31 **36-1-203**, as enacted by Laws of Utah 2001, Second Special Session, Chapter 1
32 **36-1-204**, as last amended by Laws of Utah 2005, Chapter 169
33 ENACTS:
34 **36-1-201.1**, Utah Code Annotated 1953
35 **36-1-201.5**, Utah Code Annotated 1953
36 REPEALS:
37 **36-1-201**, as last amended by Laws of Utah 2011, Chapter 74
38
39 *Be it enacted by the Legislature of the state of Utah:*
40 Section 1. Section **36-1-201.1** is enacted to read:
41 **36-1-201.1. Definitions.**
42 As used in this section:
43 (1) "Census block" means any one of the 115, 406 individual geographic areas into
44 which the Bureau of the Census of the United States Department of Commerce has divided the
45 state of Utah, to each of which the Bureau of the Census has attached a discrete population
46 tabulation from the 2010 decennial census.
47 (2) "House block assignment file" means the electronic file that assigns each of Utah's
48 115, 406 census blocks to a particular Utah House district.
49 Section 2. Section **36-1-201.5** is enacted to read:
50 **36-1-201.5. Utah House of Representatives -- House district boundaries.**
51 (1) The Utah House of Representatives shall consist of 75 members, with one member
52 to be elected from each Utah House of Representative district.
53 (2) The Legislature adopts the official census population figures and maps of the
54 Bureau of the Census of the United States Department of Commerce developed in connection
55 with the taking of the 2010 national decennial census as the official data for establishing House
56 district boundaries.
57 (3) (a) The Legislature enacts the numbers and boundaries of the House districts
58 designated by the House block assignment file that is the electronic component of the bill that

59 enacts this section.
60 (b) That House block assignment file, and the legislative boundaries generated from
61 that block assignment file, may be accessed via the Utah Legislature's website.
62 Section 3. Section **36-1-202** is amended to read:
63 **36-1-202. House districts -- Filing -- Legal boundaries.**
64 (1) (a) The Legislature shall file [~~copies of the official maps~~] a copy of the House block
65 assignment file enacted by the Legislature[~~, and any other relevant materials,~~] with the
66 lieutenant governor's office.
67 (b) [~~Except as provided in Subsection (2), the~~] The legal boundaries of House districts
68 are contained in the [~~official maps~~] House block assignment file on file with the lieutenant
69 governor's office.
70 [~~(2) (a) Because of the new county boundary separating Salt Lake County and Utah~~
71 ~~County, the boundary separating House District 51 and House District 27 that follows the old~~
72 ~~county boundary is changed to follow the new county boundary.~~]
73 [~~(b) The following census blocks from the 2000 census are removed from House~~
74 ~~District 27 and placed into House District 57: Census Tract 010205, Blocks 1000, 1001, 3001,~~
75 ~~3003, and 3004.~~]
76 [~~(3) When questions of interpretation of House district boundaries arise, the official~~
77 ~~maps on file in the lieutenant governor's office shall serve as the indication of the legislative~~
78 ~~intent in drawing the House district boundaries.~~]
79 [~~(4) Maps identifying the boundaries for House districts may be viewed on the Internet~~
80 ~~at the lieutenant governor's website.~~]
81 (2) (a) The lieutenant governor shall:
82 (i) generate maps of each House district from the House block assignment file; and
83 (ii) ensure that those maps are available for viewing on the lieutenant governor's
84 website.
85 (b) If there is any inconsistency between the maps and the House block assignment file,
86 the House block assignment file is controlling.
87 Section 4. Section **36-1-202.2** is amended to read:
88 **36-1-202.2. County clerk, Automated Geographic Reference Center, and**
89 **lieutenant governor responsibilities -- Maps and voting precinct boundaries.**

90 (1) Each county clerk shall obtain [~~copies of the official maps~~] a copy of the House
91 block assignment file for the clerk's county from the lieutenant governor's office.
92 (2) (a) A county clerk may create one or more county maps that identify the boundaries
93 of House districts as [~~shown on the official maps~~] generated from the House block assignment
94 file.
95 (b) Before publishing or distributing any map or data created by the county clerk that
96 identifies the boundaries of House districts within the county, the clerk shall submit the county
97 map and data to the lieutenant governor and to the Automated Geographic Reference Center for
98 review.
99 (c) Within 30 days after receipt of a county map and data from a county clerk, the
100 Automated Geographic Reference Center shall:
101 (i) review the county map and data to evaluate if the county map and data accurately
102 reflect the boundaries of House districts established by the Legislature in the [~~official maps~~]
103 House block assignment file;
104 (ii) determine whether the county map and data are correct or incorrect; and
105 (iii) communicate those findings to the lieutenant governor.
106 (d) The lieutenant governor shall either notify the county clerk that the county map and
107 data are correct or notify the county clerk that the county map and data are incorrect.
108 (e) If the county clerk receives notice from the lieutenant governor that the county map
109 and data submitted are incorrect, the county clerk shall:
110 (i) make the corrections necessary to conform the county map and data to the [~~official~~
111 ~~maps~~] House block assignment file; and
112 (ii) resubmit the corrected county map and data to the lieutenant governor and to the
113 Automated Geographic Reference Center for a new review under this Subsection (2).
114 (3) (a) Subject to the requirements of this Subsection (3), each county clerk shall
115 establish voting precincts and polling places within each House district according to the
116 procedures and requirements of Section 20A-5-303.
117 (b) Within five working days after approval of voting precincts and polling places by
118 the county legislative body as required by Section 20A-5-303, each county clerk shall submit a
119 voting precinct map identifying the boundaries of each voting precinct within the county to the
120 lieutenant governor and to the Automated Geographic Reference Center for review.

121 (c) Within 30 days after receipt of a voting precinct map from a county clerk, the
122 Automated Geographic Reference Center shall:
123 (i) review the voting precinct map to evaluate if the county map accurately reflects the
124 boundaries of House districts established by the Legislature in the [~~official maps~~] House block
125 assignment file;
126 (ii) determine whether the voting precinct map is correct or incorrect; and
127 (iii) communicate those findings to the lieutenant governor.
128 (d) The lieutenant governor shall either notify the county clerk that the voting precinct
129 map is correct or notify the county clerk that the voting precinct map is incorrect.
130 (e) If the county clerk receives notice from the lieutenant governor that the voting
131 precinct map is incorrect, the county clerk shall:
132 (i) make the corrections necessary to conform the voting precinct map to the [~~official~~
133 ~~maps~~] House block assignment file; and
134 (ii) resubmit the corrected voting precinct map to the lieutenant governor and to the
135 Automated Geographic Reference Center for a new review under this Subsection (3).
136 Section 5. Section **36-1-203** is amended to read:
137 **36-1-203. Omissions from maps -- How resolved.**
138 (1) If any area of the state is omitted from a Utah House of Representatives district in
139 the [~~maps~~] House block assignment file enacted by the Legislature, the county clerk of the
140 affected county, upon discovery of the omission, shall attach the area to the appropriate House
141 district according to the requirements of Subsections (2) and (3).
142 (2) If the omitted area is surrounded by a single House district, the county clerk shall
143 attach the area [~~shall be attached~~] to that district.
144 (3) If the omitted area is contiguous to two or more House districts, the county clerk
145 shall attach the area [~~shall be attached~~] to the district that has the least population, as
146 determined by the official census population figures and maps [~~of the Bureau of the Census of~~
147 ~~the United States Department of Commerce developed in connection with the taking of the~~
148 ~~2000 2010 national decennial census~~] described in Subsection 36-1-201.5(2).
149 (4) [~~Any attachment~~] The county clerk shall certify in writing and file with the
150 lieutenant governor any attachment made under [~~Subsection (1) shall be certified in writing and~~
151 ~~filed with the lieutenant governor~~] this section.

152 Section 6. Section **36-1-204** is amended to read:

153 **36-1-204. Uncertain boundaries -- How resolved.**

154 (1) As used in this section, "affected party" means:

155 (a) a representative whose Utah House of Representatives district boundary is uncertain
156 because the [~~identifying feature~~] boundary in the House block assignment file used to establish
157 the House district boundary has been removed, modified, or is unable to be identified or who is
158 uncertain about whether or not [~~he~~] the representative or another person resides in a particular
159 House district;

160 (b) a candidate for representative whose House district boundary is uncertain because
161 the [~~identifying feature~~] boundary in the House block assignment file used to establish the
162 district boundary has been removed, modified, or is unable to be identified or who is uncertain
163 about whether or not [~~he~~] the candidate or another person resides in a particular House district;
164 or

165 (c) a person who is uncertain about which House district contains the person's
166 residence because the [~~identifying feature~~] boundary in the House block assignment file used to
167 establish the House district boundary has been removed, modified, or is unable to be identified.

168 (2) (a) An affected party may file a written request petitioning the lieutenant governor
169 to determine:

170 (i) the precise location of the House district boundary;

171 (ii) the number of the House district in which a person resides; or

172 (iii) both Subsections (2)(a)(i) and (ii).

173 (b) In order to make the determination required by Subsection (2)(a), the lieutenant
174 governor shall review the [~~official maps~~] House block assignment file and obtain and review
175 other relevant data such as [~~census block and tract descriptions,~~] aerial photographs, aerial
176 maps, or other data about the area.

177 (c) Within five days of receipt of the request, the lieutenant governor shall review the
178 [~~maps~~] House block assignment file, obtain and review any relevant data, and make a
179 determination.

180 (d) When the lieutenant governor determines the location of the House district
181 boundary, the lieutenant governor shall:

182 (i) prepare a certification identifying the appropriate House district boundary and

183 attaching a map, if necessary; and
184 (ii) send a copy of the certification to:
185 (A) the affected party;
186 (B) the county clerk of the affected county; and
187 (C) the Automated Geographic Reference Center created under Section 63F-1-506.
188 (e) If the lieutenant governor determines the number of the House district in which a
189 particular person resides, the lieutenant governor shall send a letter identifying that district by
190 number to:
191 (i) the person;
192 (ii) the affected party who filed the petition, if different than the person whose House
193 district number was identified; and
194 (iii) the county clerk of the affected county.
195 Section 7. **Repealer.**
196 This bill repeals:
197 Section **36-1-201, Utah House of Representatives -- District boundaries.**
198 Section 8. **Effective date.**
199 This bill takes effect on January 1, 2012, for purposes of nominating and electing
200 certain members of the Utah State House and on January 1, 2013, for all other purposes.

Legislative Review Note
as of 9-30-11 11:54 AM

Office of Legislative Research and General Counsel

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: J.L. Fellows ₵
₵ 09-30-11 4:53 PM ₵

H.B. 3002

STATE BOARD OF EDUCATION BOUNDARIES AND ELECTION DESIGNATION

2011 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: Ralph Okerlund

LONG TITLE

Redistricting Boundary Information:

The State Board of Education district boundary information may be found at http://le.utah.gov.

Block assignment file security code: 43dcc31231a0fb585694785beddd144c

General Description:

This bill, which includes this printed text and the electronic data affiliated with it, establishes new State Board of Education district boundaries and makes other technical corrections.

Highlighted Provisions:

This bill:

- repeals current State Board of Education district boundaries and establishes new State Board of Education district boundaries;
- establishes election dates for State Board of Education districts to ensure that State Board of Education terms are staggered;
- establishes the block assignment file, which is part of this bill in electronic form, as the legal boundaries of State Board of Education districts; and
- makes technical corrections.

Money Appropriated in this Bill:

None

H.B. 3002

28 **Other Special Clauses:**

29 This bill takes effect on January 1, 2012, for purposes of nominating and electing
30 certain members of the State Board of Education and on January 1, 2013, for all other
31 purposes.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **20A-14-102**, as last amended by Laws of Utah 2011, Chapter 74

35 **20A-14-102.1**, as enacted by Laws of Utah 2001, Second Special Session, Chapter 2

36 **20A-14-102.2**, as last amended by Laws of Utah 2005, Chapter 169

37 **20A-14-102.3**, as enacted by Laws of Utah 2011, Chapter 74

38 **20A-14-103**, as last amended by Laws of Utah 2011, Chapter 297

39 ENACTS:

40 **20A-14-101.1**, Utah Code Annotated 1953

41 **20A-14-101.5**, Utah Code Annotated 1953

42 REPEALS:

43 **20A-14-101**, as repealed and reenacted by Laws of Utah 2001, Second Special Session,
44 Chapter 2

45 ---

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

47 Section 1. Section **20A-14-101.1** is enacted to read:

48 **20A-14-101.1. Definitions.**

49 As used in this section:

50 (1) "Board" means the State Board of Education.

51 (2) "Board block assignment file" means the electronic file that assigns each of Utah's
52 115, 406 census blocks to a particular State Board of Education district.

53 (3) "Census block" means any one of the 115, 406 individual geographic areas into
54 which the Bureau of the Census of the United States Department of Commerce has divided the
55 state of Utah, to each of which the Bureau of the Census has attached a discrete population
56 tabulation from the 2010 decennial census.

57 Section 2. Section **20A-14-101.5** is enacted to read:

58 **20A-14-101.5. State Board of Education -- Number of members -- State Board of**

59 **Education district boundaries.**
60 (1) The State Board of Education shall consist of 15 members, with one member to be
61 elected from each State Board of Education district.
62 (2) The Legislature adopts the official census population figures and maps of the
63 Bureau of the Census of the United States Department of Commerce developed in connection
64 with the taking of the 2010 national decennial census as the official data for establishing State
65 Board of Education district boundaries.
66 (3) (a) The Legislature enacts the numbers and boundaries of the State Board of
67 Education districts designated in the Board block assignment file that is the electronic
68 component of the bill that enacts this section.
69 (b) That Board block assignment file, and the State Board of Education district
70 boundaries generated from that Board block assignment file, may be accessed via the Utah
71 Legislature's website.
72 Section 3. Section **20A-14-102** is amended to read:
73 **20A-14-102. State Board of Education districts.**
74 (1) (a) The Legislature shall file [~~copies of the official maps~~] a copy of the Board block
75 assignment file enacted by the Legislature with the lieutenant governor's office.
76 (b) The legal boundaries of State Board of Education districts are contained in the
77 [~~official maps~~] Board block assignment file on file with the lieutenant governor's office.
78 [~~(2) When questions of interpretation of state board district boundaries arise, the~~
79 ~~official maps on file in the lieutenant governor's office shall serve as the indication of the~~
80 ~~legislative intent in drawing the state board district boundaries.~~]
81 [~~(3) Maps identifying the boundaries for state board districts may be viewed on the~~
82 ~~Internet at the lieutenant governor's website.~~]
83 (2) (a) The lieutenant governor shall:
84 (i) generate maps of each State Board of Education district from the Board block
85 assignment file; and
86 (ii) ensure that those maps are available for viewing on the lieutenant governor's
87 website.
88 (b) If there is any inconsistency between the maps and the Board block assignment file,
89 the Board block assignment file is controlling.

90 Section 4. Section **20A-14-102.1** is amended to read:

91 **20A-14-102.1. Omissions from maps -- How resolved.**

92 (1) If any area of the state is omitted from a State Board of Education district in the
93 [~~maps~~] Board block assignment file enacted by the Legislature, the county clerk of the affected
94 county, upon discovery of the omission, shall attach the area to the appropriate [~~state board~~]
95 State Board of Education district according to the requirements of Subsections (2) and (3).

96 (2) If the omitted area is surrounded by a [~~state board~~] single State Board of Education
97 district, the county clerk shall attach the area [~~shall be attached~~] to that district.

98 (3) If the omitted area is contiguous to two or more State Board of Education districts,
99 the county clerk shall attach the area [~~shall be attached~~] to the district that has the least
100 population, as determined by the official census population figures and maps described in
101 Subsection 20A-14-101.5(2).

102 (4) [~~Any attachment~~] The county clerk shall certify in writing and file with the
103 lieutenant governor any attachment made under [~~Subsection (1) shall be certified in writing and~~
104 ~~filed with the lieutenant governor~~] this section.

105 Section 5. Section **20A-14-102.2** is amended to read:

106 **20A-14-102.2. Uncertain boundaries -- How resolved.**

107 (1) As used in this section, "affected party" means:

108 (a) a state school board member whose [~~state school board~~] State Board of Education
109 district boundary is uncertain because the [~~identifying feature~~] boundary in the Board block
110 assignment file used to establish the district boundary has been removed, modified, or is unable
111 to be identified or who is uncertain about whether or not [~~he~~] the member or another person
112 resides in a particular [~~state board~~] State Board of Education district;

113 (b) a candidate for state school board whose [~~state board~~] State Board of Education
114 district boundary is uncertain because the [~~identifying feature~~] boundary in the Board block
115 assignment file used to establish the district boundary has been removed, modified, or is unable
116 to be identified or who is uncertain about whether or not [~~he~~] the candidate or another person
117 resides in a particular [~~state board~~] State Board of Education district; or

118 (c) a person who is uncertain about which [~~state board~~] State Board of Education
119 district contains the person's residence because the [~~identifying feature~~] boundary in the Board
120 block assignment file used to establish the State Board of Education district boundary has been

121 removed, modified, or is unable to be identified.
122 (2) (a) An affected party may file a written request petitioning the lieutenant governor
123 to determine:
124 (i) the precise location of the [~~state board~~] State Board of Education district boundary;
125 (ii) the number of the [~~state board~~] State Board of Education district in which a person
126 resides; or
127 (iii) both Subsections (2)(a)(i) and (ii).
128 (b) In order to make the determination required by Subsection (2)(a), the lieutenant
129 governor shall review the [~~official maps~~] Board block assignment file and obtain and review
130 other relevant data such as aerial photographs, aerial maps, or other data about the area.
131 (c) Within five days of receipt of the request, the lieutenant governor shall review the
132 [~~maps~~] Board block assignment file, obtain and review any relevant data, and make a
133 determination.
134 (d) If the lieutenant governor determines the precise location of the [~~state board~~] State
135 Board of Education district boundary, the lieutenant governor shall:
136 (i) prepare a certification identifying the appropriate State Board of Education district
137 boundary and attaching a map, if necessary; and
138 (ii) send a copy of the certification to:
139 (A) the affected party;
140 (B) the county clerk of the affected county; and
141 (C) the Automated Geographic Reference Center created under Section 63F-1-506.
142 (e) If the lieutenant governor determines the number of the [~~state board~~] State Board of
143 Education district in which a particular person resides, the lieutenant governor shall send a
144 letter identifying that district by number to:
145 (i) the person;
146 (ii) the affected party who filed the petition, if different than the person whose [~~state~~
147 ~~board~~] State Board of Education district number was identified; and
148 (iii) the county clerk of the affected county.
149 Section 6. Section **20A-14-102.3** is amended to read:
150 **20A-14-102.3. County clerk, Automated Geographic Reference Center, and**
151 **lieutenant governor responsibilities -- Maps and voting precinct boundaries.**

152 (1) Each county clerk shall obtain [~~copies of the official maps~~] a copy of the Board
153 block assignment file for the clerk's county from the lieutenant governor's office.
154 (2) (a) A county clerk may create one or more county maps that identify the boundaries
155 of [~~state board~~] State Board of Education districts as [~~shown on the official maps~~] generated
156 from the Board block assignment file.
157 (b) Before publishing or distributing any map or data created by the county clerk that
158 identifies the boundaries of [~~state board~~] State Board of Education districts within the county,
159 the clerk shall submit the county map and data to the lieutenant governor and to the Automated
160 Geographic Reference Center for review.
161 (c) Within 30 days after receipt of a county map and data from a county clerk, the
162 Automated Geographic Reference Center shall:
163 (i) review the county map and data to evaluate if the county map and data accurately
164 reflect the boundaries of [~~state board~~] State Board of Education districts established by the
165 Legislature in the [~~official maps~~] Board block assignment file;
166 (ii) determine whether the county map and data are correct or incorrect; and
167 (iii) communicate those findings to the lieutenant governor.
168 (d) The lieutenant governor shall either notify the county clerk that the county map and
169 data are correct or inform the county clerk that the county map and data are incorrect.
170 (e) If the county clerk receives notice from the lieutenant governor that the county map
171 and data submitted are incorrect, the county clerk shall:
172 (i) make the corrections necessary to conform the county map and data to the [~~official~~
173 ~~maps~~] Board block assignment file; and
174 (ii) resubmit the corrected county map and data to the lieutenant governor for a new
175 review under this Subsection (2).
176 (3) (a) Subject to the requirements of this Subsection (3), each county clerk shall
177 establish voting precincts and polling places within each [~~state board~~] State Board of Education
178 district according to the procedures and requirements of Section 20A-5-303.
179 (b) Within five working days after approval of voting precincts and polling places by
180 the county legislative body as required by Section 20A-5-303, each county clerk shall submit a
181 voting precinct map identifying the boundaries of each voting precinct within the county to the
182 lieutenant governor and to the Automated Geographic Reference Center for review.

183 (c) Within 30 days after receipt of a voting precinct map from a county clerk, the
184 Automated Geographic Reference Center shall:
185 (i) review the voting precinct map to evaluate if the [~~county~~] voting precinct map
186 accurately reflects the boundaries of [~~state board~~] State Board of Education districts established
187 by the Legislature in the [~~official maps~~] Board block assignment file;
188 (ii) determine whether the voting precinct map is correct or incorrect; and
189 (iii) communicate those findings to the lieutenant governor.
190 (d) The lieutenant governor shall either notify the county clerk that the voting precinct
191 map is correct or notify the county clerk that the voting precinct map is incorrect.
192 (e) If the county clerk receives notice from the lieutenant governor that the voting
193 precinct map is incorrect, the county clerk shall:
194 (i) make the corrections necessary to conform the voting precinct map to the [~~official~~
195 ~~maps~~] Board block assignment file; and
196 (ii) resubmit the corrected voting precinct map to the lieutenant governor and to the
197 Automated Geographic Reference Center for a new review under this Subsection (3).
198 Section 7. Section **20A-14-103** is amended to read:
199 **20A-14-103. State Board of Education members -- When elected -- Qualifications**
200 **-- Avoiding conflicts of interest.**
201 [~~(1) (a) In 2002 and every four years thereafter, one member each shall be elected from~~
202 ~~new Districts 2, 3, 5, 6, 9, 10, 14, and 15 to serve a four-year term.~~]
203 [~~(b) In 2004 and every four years thereafter, one member each shall be elected from~~
204 ~~new Districts 4, 7, 8, 11, 12, and 13 to serve a four-year term.~~]
205 [~~(c) (i) Because of the combination of certain former districts, the state school board~~
206 ~~members elected from old Districts 2 and 4 who will reside in new District 1 may not serve out~~
207 ~~the term for which they were elected, but shall stand for election in 2002 for a term of office of~~
208 ~~four years from the realigned district in which each resides.~~]
209 [~~(ii) If one of the incumbent state school board members from new District 1 indicates~~
210 ~~in writing to the lieutenant governor that the school board member will not seek reelection, that~~
211 ~~incumbent state school board member may serve until January 1, 2003 and the other incumbent~~
212 ~~state school board member shall serve out the term for which the member was elected, which is~~
213 ~~until January 1, 2005.~~]

214 (1) (a) Unless otherwise provided by law, each State Board of Education member
215 elected from a State Board of Education District at the 2010 general election shall:
216 (i) serve out the term of office for which that member was elected; and
217 (ii) represent the realigned district if the member resides in that district.
218 (b) At the general election to be held in 2012, a State Board of Education member
219 elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected
220 to serve a term of office of four years.
221 (c) In order to ensure that the terms of approximately half of the State Board of
222 Education members expire every two years:
223 (i) at the general election to be held in 2012, the State Board of Education member
224 elected from State Board of Education District 1 shall be elected to serve a term of office of
225 two years; and
226 (ii) at the general election to be held in 2014, the State Board of Education member
227 elected from State Board of Education District 1 shall be elected to serve a term of office of
228 four years.
229 (2) (a) A person seeking election to the [~~state school board~~] State Board of Education
230 shall have been a resident of the [~~state school board~~] State Board of Education district in which
231 the person is seeking election for at least one year as of the date of the election.
232 (b) A person who has resided within the [~~state school board~~] State Board of Education
233 district, as the boundaries of the district exist on the date of the election, for one year
234 immediately preceding the date of the election shall be considered to have met the requirements
235 of this Subsection (2).
236 (3) A State Board of Education member shall:
237 (a) be and remain a registered voter in the [~~state board~~] State Board of Education
238 district from which the member was elected or appointed; and
239 (b) maintain the member's primary residence within the [~~state board~~] State Board of
240 Education district from which the member was elected or appointed during the member's term
241 of office.
242 (4) A [~~member of the~~] State Board of Education member may not, during the member's
243 term of office, also serve as an employee of:
244 (a) the [~~board~~] State Board of Education;

245 (b) the Utah State Office of Education; or
246 (c) the Utah State Office of Rehabilitation.
247 Section 8. **Repealer.**
248 This bill repeals:
249 Section **20A-14-101, State Board of Education -- Number of members -- District**
250 **boundaries.**
251 Section 9. **Effective date.**
252 This bill takes effect on January 1, 2012, for purposes of nominating and electing
253 certain members of the State Board of Education and on January 1, 2013, for all other
254 purposes.

Legislative Review Note
as of 9-30-11 11:51 AM

Office of Legislative Research and General Counsel

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: P. Owen ₵
₵ 09-27-11 3:53 PM ₵

H.B. 3003

1 **WORKERS' COMPENSATION AND UNINCORPORATED**
2 **ENTITIES AMENDMENTS**
3 2011 THIRD SPECIAL SESSION
4 STATE OF UTAH
5 **Chief Sponsor: Michael T. Morley**
6 Senate Sponsor: _____
7

8 **LONG TITLE**
9 **Committee Note:**
10 The Business and Labor Interim Committee recommended this bill.
11 **General Description:**
12 This bill amends the Workers' Compensation Act to address workers' compensation
13 requirements for unincorporated entities.
14 **Highlighted Provisions:**
15 This bill:
16 ▸ addresses workers' compensation coverage requirements for unincorporated entities;
17 and
18 ▸ makes technical and conforming amendments.
19 **Money Appropriated in this Bill:**
20 None
21 **Other Special Clauses:**
22 This bill provides an immediate effective date.
23 This bill provides retrospective operation to July 1, 2011.
24 **Utah Code Sections Affected:**
25 AMENDS:
26 **34A-2-103**, as last amended by Laws of Utah 2011, Chapters 328 and 413
27

H.B. 3003

28 *Be it enacted by the Legislature of the state of Utah:*
29 Section 1. Section **34A-2-103** is amended to read:
30 **34A-2-103. Employers enumerated and defined -- Regularly employed --**
31 **Statutory employers.**
32 (1) (a) The state, and each county, city, town, and school district in the state are
33 considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.
34 (b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah
35 Occupational Disease Act prescribed in Sections 34A-2-105 and 34A-3-102, the state is
36 considered to be a single employer and includes any office, department, agency, authority,
37 commission, board, institution, hospital, college, university, or other instrumentality of the
38 state.
39 (2) (a) Except as provided in Subsection (4), each person, including each public utility
40 and each independent contractor, who regularly employs one or more workers or operatives in
41 the same business, or in or about the same establishment, under any contract of hire, express or
42 implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah
43 Occupational Disease Act.
44 (b) As used in this Subsection (2):
45 (i) "Independent contractor" means any person engaged in the performance of any work
46 for another who, while so engaged, is:
47 (A) independent of the employer in all that pertains to the execution of the work;
48 (B) not subject to the routine rule or control of the employer;
49 (C) engaged only in the performance of a definite job or piece of work; and
50 (D) subordinate to the employer only in effecting a result in accordance with the
51 employer's design.
52 (ii) "Regularly" includes all employments in the usual course of the trade, business,
53 profession, or occupation of the employer, whether continuous throughout the year or for only a
54 portion of the year.
55 (3) (a) The client under a professional employer organization agreement regulated
56 under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:
57 (i) is considered the employer of a covered employee; and
58 (ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a

59 covered employee by complying with Subsection 34A-2-201(1) or (2) and commission rules.
60 (b) The division shall promptly inform the Insurance Department if the division has
61 reason to believe that a professional employer organization is not in compliance with
62 Subsection 34A-2-201(1) or (2) and commission rules.
63 (4) A domestic employer who does not employ one employee or more than one
64 employee at least 40 hours per week is not considered an employer under this chapter and
65 Chapter 3, Utah Occupational Disease Act.
66 (5) (a) As used in this Subsection (5):
67 (i) (A) "agricultural employer" means a person who employs agricultural labor as
68 defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in
69 Subsection 35A-4-206(3); and
70 (B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a
71 member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural
72 employer is a corporation, partnership, or other business entity, "agricultural employer" means
73 an officer, director, or partner of the business entity;
74 (ii) "employer's immediate family" means:
75 (A) an agricultural employer's:
76 (I) spouse;
77 (II) grandparent;
78 (III) parent;
79 (IV) sibling;
80 (V) child;
81 (VI) grandchild;
82 (VII) nephew; or
83 (VIII) niece;
84 (B) a spouse of any person provided in Subsection (5)(a)(ii)(A)(II) through (VIII); or
85 (C) an individual who is similar to those listed in Subsections (5)(a)(ii)(A) or (B) as
86 defined by rules of the commission; and
87 (iii) "nonimmediate family" means a person who is not a member of the employer's
88 immediate family.
89 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an

90 agricultural employer is not considered an employer of a member of the employer's immediate
91 family.
92 (c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
93 agricultural employer is not considered an employer of a nonimmediate family employee if:
94 (i) for the previous calendar year the agricultural employer's total annual payroll for all
95 nonimmediate family employees was less than $8,000; or
96 (ii) (A) for the previous calendar year the agricultural employer's total annual payroll
97 for all nonimmediate family employees was equal to or greater than $8,000 but less than
98 $50,000; and
99 (B) the agricultural employer maintains insurance that covers job-related injuries of the
100 employer's nonimmediate family employees in at least the following amounts:
101 (I) $300,000 liability insurance, as defined in Section 31A-1-301; and
102 (II) $5,000 for health care benefits similar to benefits under health care insurance as
103 defined in Section 31A-1-301.
104 (d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
105 agricultural employer is considered an employer of a nonimmediate family employee if:
106 (i) for the previous calendar year the agricultural employer's total annual payroll for all
107 nonimmediate family employees is equal to or greater than $50,000; or
108 (ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate
109 family employees was equal to or exceeds $8,000 but is less than $50,000; and
110 (B) the agricultural employer fails to maintain the insurance required under Subsection
111 (5)(c)(ii)(B).
112 (6) An employer of agricultural laborers or domestic servants who is not considered an
113 employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under
114 this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:
115 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and
116 (b) the rules of the commission.
117 (7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following
118 persons that procures work to be done by a contractor notwithstanding whether or not the
119 person directly employs a person:
120 (A) a sole proprietorship;

121 (B) a corporation;
122 (C) a partnership;
123 (D) a limited liability company; or
124 (E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).
125 (ii) If an employer procures any work to be done wholly or in part for the employer by
126 a contractor over whose work the employer retains supervision or control, and this work is a
127 part or process in the trade or business of the employer, the contractor, all persons employed by
128 the contractor, all subcontractors under the contractor, and all persons employed by any of
129 these subcontractors, are considered employees of the original employer for the purposes of
130 this chapter and Chapter 3, Utah Occupational Disease Act.
131 (b) Any person who is engaged in constructing, improving, repairing, or remodelling a
132 residence that the person owns or is in the process of acquiring as the person's personal
133 residence may not be considered an employee or employer solely by operation of Subsection
134 (7)(a).
135 (c) A partner in a partnership or an owner of a sole proprietorship is not considered an
136 employee under Subsection (7)(a) if the employer who procures work to be done by the
137 partnership or sole proprietorship obtains and relies on either:
138 (i) a valid certification of the partnership's or sole proprietorship's compliance with
139 Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of
140 workers' compensation benefits pursuant to Section 34A-2-201; or
141 (ii) if a partnership or sole proprietorship with no employees other than a partner of the
142 partnership or owner of the sole proprietorship, a workers' compensation coverage waiver
143 issued by an insurer pursuant to Part 10, Workers' Compensation Coverage Waivers Act,
144 stating that:
145 (A) the partnership or sole proprietorship is customarily engaged in an independently
146 established trade, occupation, profession, or business; and
147 (B) the partner or owner personally waives the partner's or owner's entitlement to the
148 benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the
149 partnership or sole proprietorship.
150 (d) A director or officer of a corporation is not considered an employee under
151 Subsection (7)(a) if the director or officer is excluded from coverage under Subsection

152 34A-2-104(4).
153 (e) A contractor or subcontractor is not an employee of the employer under Subsection
154 (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains
155 and relies on either:
156 (i) a valid certification of the contractor's or subcontractor's compliance with Section
157 34A-2-201; or
158 (ii) if a partnership, corporation, or sole proprietorship with no employees other than a
159 partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a
160 workers' compensation coverage waiver issued by an insurer pursuant to Part 10, Workers'
161 Compensation Coverage Waivers Act, stating that:
162 (A) the partnership, corporation, or sole proprietorship is customarily engaged in an
163 independently established trade, occupation, profession, or business; and
164 (B) the partner, corporate officer, or owner personally waives the partner's, corporate
165 officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah
166 Occupational Disease Act, in the operation of the partnership's, corporation's, or sole
167 proprietorship's enterprise under a contract of hire for services.
168 (f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:
169 (A) is an employer; and
170 (B) procures work to be done wholly or in part for the employer by a contractor,
171 including:
172 (I) all persons employed by the contractor;
173 (II) all subcontractors under the contractor; and
174 (III) all persons employed by any of these subcontractors.
175 (ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of
176 Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of
177 Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor
178 or subcontractor described in Subsection (7)(f)(i)(B).
179 (iii) Subsection (7)(f)(ii) applies if the eligible employer:
180 (A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an
181 original employer under Subsection (7)(a) because the contractor or subcontractor fails to
182 comply with Section 34A-2-201;

183 (B) (I) secures the payment of workers' compensation benefits for the contractor or
184 subcontractor pursuant to Section 34A-2-201;
185 (II) procures work to be done that is part or process of the trade or business of the
186 eligible employer; and
187 (III) does the following with regard to a written workplace accident and injury
188 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):
189 (Aa) adopts the workplace accident and injury reduction program;
190 (Bb) posts the workplace accident and injury reduction program at the work site at
191 which the eligible employer procures work; and
192 (Cc) enforces the workplace accident and injury reduction program according to the
193 terms of the workplace accident and injury reduction program; or
194 (C) (I) obtains and relies on:
195 (Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);
196 (Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or
197 (7)(e)(ii); or
198 (Cc) proof that a director or officer is excluded from coverage under Subsection
199 34A-2-104(4);
200 (II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits
201 if the contractor or subcontractor fails to comply with Section 34A-2-201;
202 (III) procures work to be done that is part or process in the trade or business of the
203 eligible employer; and
204 (IV) does the following with regard to a written workplace accident and injury
205 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):
206 (Aa) adopts the workplace accident and injury reduction program;
207 (Bb) posts the workplace accident and injury reduction program at the work site at
208 which the eligible employer procures work; and
209 (Cc) enforces the workplace accident and injury reduction program according to the
210 terms of the workplace accident and injury reduction program.
211 (8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity
212 organized or doing business in the state that is not:
213 (i) an individual;

214 (ii) a corporation; or
215 (iii) publicly traded.
216 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
217 unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah
218 Construction Trades Licensing Act, is [~~considered~~] presumed to be the employer of each
219 individual who holds, directly or indirectly, an ownership interest in the unincorporated entity.
220 Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity
221 shall provide the individual who holds the ownership interest workers' compensation coverage
222 under this chapter and Chapter 3, Utah Occupational Disease Act unless the presumption is
223 rebutted under Subsection (8)(c).
224 (c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
225 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
226 under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that
227 the individual:
228 (i) is an active manager of the unincorporated entity;
229 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
230 entity; or
231 (iii) is not subject to supervision or control in the performance of work by:
232 (A) the unincorporated entity; or
233 (B) a person with whom the unincorporated entity contracts.
234 (d) As part of the rules made under Subsection (8)(c), the commission may define:
235 (i) "active manager";
236 (ii) "directly or indirectly holds at least an 8% ownership interest"; and
237 (iii) "subject to supervision or control in the performance of work."
238 Section 2. **Effective date.**
239 If approved by two-thirds of all the members elected to each house, this bill takes effect
240 upon approval by the governor, or the day following the constitutional time limit of Utah
241 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
242 the date of veto override.
243 Section 3. **Retrospective operation.**
244 This bill has retrospective operation to July 1, 2011.

Legislative Review Note
as of 9-27-11 3:39 PM

Office of Legislative Research and General Counsel