

LEGISLATIVE BILL 1142

Approved by the Governor March 23, 1988

Introduced by Education Committee, Withem, 14,
Chairperson; V. Johnson, 8; Baack, 47;
Nelson, 35; Chizek, 31; Dierks, 40

AN ACT relating to schools; to amend sections 10-209, 79-312.01, 79-401, 79-488.05, 79-801, 79-901, 79-1001, 79-1032, 79-1033, 79-1040, 79-2203, 79-2305, and 79-2307, Reissue Revised Statutes of Nebraska, 1943, and section 32-223, Revised Statutes Supplement, 1986; to provide a uniform method for designating school districts; to change a provision relating to the sale of school vehicles; to eliminate the position of physician to the Nebraska School for the Deaf; to harmonize provisions; and to repeal the original sections, and also section 79-1905, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 10-209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-209. Except as otherwise expressly specified by statute or the ordinance, resolution, or instrument authorizing the issuance of any bond or interest coupon mentioned in this section, whenever a bond or an interest coupon appertaining thereto, issued by a county, city, village, school district, irrigation district, or other municipal or public corporation or political subdivision of the State of Nebraska, shall be presented for payment to the county treasurer, city treasurer, or other person or corporation designated as the paying agent, and there is not sufficient money to pay the same in the fund out of which such bond or coupon is payable, said the county treasurer, city treasurer, or other person or corporation designated by law as the paying agent, shall register said such bond or coupon in a book kept by him or her for that purpose. No ; Provided, no such bond or coupon shall be presented or registered prior to its maturity date. Each such bond or coupon so registered shall be registered in order of its presentation for payment, and in the event that several of such bonds or coupons are presented for

payment simultaneously, such bonds or coupons shall be registered in accordance with the numbers assigned to such bonds at the time of their issue or in accordance with the numbers assigned to the bonds to which such coupons appertain at the time of their issue. Thereafter money coming into such fund shall be applied to payment of such bonds or interest coupons, as the case may be, in the order of their registration. The county treasurer, city treasurer, or other person or corporation designated by law as the paying agent, shall keep a record of such registrations showing the time, date, and serial number of each registration, the name of the county, city, village, ~~school district~~, irrigation district, or other municipal or public corporation or political subdivision of the state or the corporate name of the school district as described in section 79-401 issuing such bond or coupon, the date, kind, and serial number of such registered bond and of the bond to which each registered coupon appertains, the maturity date, the principal amount of the bond or coupon so registered, and the name and address of the person presenting such bond or coupon for payment. On the back of each of ~~said such~~ bonds or coupons, the county treasurer, city treasurer, or other person or corporation designated by law as the paying agent, shall enter the word Registered with the time, date, and serial number of such registration, and return such bond or coupon to the person who has so presented the same for payment. All such bonds and coupons shall contain a provision fixing the rate of interest they shall bear after due if the paying agent does not have sufficient money to pay such bonds or coupons on the due date thereof, but if any such bonds or coupons shall not contain such provision, such bonds or coupons shall bear interest at the rate of nine percent per annum from due date until the paying agent has funds to pay such bonds or coupons and interest thereon.

Sec. 2. That section 32-223, Revised Statutes Supplement, 1986, be amended to read as follows:

32-223. Any person serving as supervisor of election shall then examine under oath or affirmation the applicant for registration as to his or her qualifications as an elector and shall immediately in the presence of the applicant enter in the registers the statements and facts as follows: NAME -- the name of the applicant, giving the surname, ~~and~~ Christian name in full, middle name in full, or initial, and if a married woman, her maiden name; RESIDENCE -- the name and number of the street, avenue, or other location of the dwelling

where the applicant resides if there is a number; but if there is no number, then such clear and definite description of the location of such dwelling as shall enable it to be readily found; if there is more than one family residing in the dwelling named by the applicant, the applicant shall give the number of the room or apartment as the case may be; and the corporate name of the school district as described in section 79-401; name and number; ADDRESS OF LAST REGISTRATION -- the name and number of the street, avenue, or other location of the dwelling from which the applicant last registered; OATH-AFFIRMATION -- the word Yes or No following either respectively as the case may be; DATE OF APPLICATION FOR REGISTRATION -- the month, day, and year when applicant presented himself or herself for registration; APPLICANT'S NATIVITY -- show the state, country, kingdom, empire, or dominion where the applicant was born; NATURALIZED -- the word Yes or No or Native; and, if applicant is not native born or lost citizenship, show whether naturalized by Own papers, Parent's papers, or Spouse's papers and the court, county, state, and date of naturalization as the same shall appear by the evidence of citizenship which the applicant shall submit or present in compliance with the requirements of sections 32-201 to 32-232; DATE OF BIRTH -- show the date of applicant's birth, and the applicant must shall be at least eighteen years of age, except that the time when such applicant shall be of such age may be a date subsequent to the date of his or her making application; but not later than the day of the election immediately following the time of applying; SEX -- show whether applicant is male or female; REGISTRATION TAKEN BY -- show the signature of the supervisor of election taking the application; APPROVED BY -- show the approval or rejection of the application by two supervisors of election; PARTY AFFILIATION -- show the party affiliation of the applicant; APPLICANT'S SIGNATURE -- require the applicant to affix his or her signature to the application and duplicate where required. The provisions of this This section shall not apply to persons completing the abbreviated transfer of registration form, the absentee voter form, or the form provided for in subsection (3) of section 32-221.

Sec. 3. That section 79-312.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-312.01. The Commissioner of Education shall assign a number to each public school district within this state. The county superintendent of each

county shall assign a distinct number to each school district within the county. School district numbers presently in use shall not be changed except as hereinafter provided. No number shall be assigned that is in excess of three digits. A number previously assigned to a school district shall not be reassigned as long as there is outstanding bonded indebtedness incurred by the district which was originally assigned that number. A number shall be assigned to each joint school district by the county superintendent of the county in which the administrative offices of the joint district are located.

Sec. 4. That section 79-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-401. Every duly organized school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, may sue and be sued, and may purchase, hold, and sell such personal and real estate as the law allows. Except as provided by sections 79-801, 79-901, and 79-1001, the corporate name of all school districts shall be School District Number ----- of The county in which the principal office of the school district is located together with the school district number assigned pursuant to section 79-312.01 shall constitute the corporate name of the school district, such as ----- County School District -----.

Sec. 5. That section 79-488.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-488.05. When any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for transportation of children is sold and used for any other purpose than for transportation of school children, such vehicle shall be painted a distinct color other than that prescribed by the State Board of Education. ~~The and the~~ stop arms and system of alternately flashing warning signal lights on such vehicle shall be removed. It shall be the purchaser's responsibility to see that the modifications required by this section are made. Any person violating the provisions of this section shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 6. That section 79-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-801. (1) The territory embraced within the

corporate limits of each incorporated city or village in the State of Nebraska, together with such additional territory and additions to such city or village as may be added thereto, as declared by ordinances to be boundaries of such city or village, having a population of more than one thousand and less than one hundred thousand inhabitants, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a school district of the third class, and be known by the name of The Seheei District of (name of city or village), in the county of (name of county), in the State of Nebraska. As such in that name, the school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real property, and control such obligations as are authorized by law. The title to all school buildings or other property, real or personal, owned by any school district within the corporate limits of any city or village, shall, upon the organization of the school district, vest immediately in the new school district. The 7 and the board of education of the new school district shall have exclusive control of the same for all purposes herein contemplated, except that if the territory annexed by a change of boundaries of such city has been part of a Class IV or V school district prior to such annexation, a merger of the annexed territory with the Class III school district shall become effective only if the merger is approved by a majority of the members of the board of education of the Class IV or V school district and a majority of the members of the board of education of the Class III school district within ninety days after the effective date of the annexation ordinance.

(2) Notwithstanding the provisions of subsection (1) of this section, when territory which lies within a Class III school district, Class VI school district, or Class I school district which is attached to a Class VI school district or which does not lie within a Class IV or V school district is annexed by a city or village pursuant to this section, the affected school board of the city or village school district and the affected school board or boards serving the territory subject to the annexation ordinance shall meet within thirty days of the effective date of the annexation ordinance and negotiate in good faith as to which school district shall serve the annexed territory and the effective date of any transfer. During the

process of negotiation, the affected school boards shall consider the following criteria:

(a) The educational needs of the students in the affected school districts;

(b) The economic impact upon the affected school districts;

(c) Any common interests between the annexed or platted area and the affected school districts and the community which has zoning jurisdiction over the area; and

(d) Community educational planning.

If no agreement has been reached within ninety days of the effective date of the annexation ordinance, the territory shall transfer to the school district of the annexing city or village ten days thereafter unless an affected school district petitions the district court within the ten-day period and obtains an order enjoining the transfer and requiring the school boards of the affected school districts to continue negotiation. The court shall issue the order upon a finding that the affected school board or boards have not negotiated in good faith based on one or more of the criteria listed in this subsection. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the annexed territory shall become a part of the school district of the annexing city or village.

(3) If, within the boundaries of the annexed territory, there exists a Class VI school, the school building, facilities, and land owned by the school district shall remain a part of the Class VI school district. If the Class VI school district from which territory is being annexed wishes to dispose of such school building, facilities, or land to any individual or political subdivision, including a Class I school district, the question of such disposition shall be placed on the ballot for the next primary or general election. All registered voters of such Class VI school district shall then vote on the question at such election. A simple majority of the votes cast shall resolve the issue.

(4) Whenever an application for approval of a final plat or replat is filed for territory which lies within the zoning jurisdiction of a city of the first or second class and does not lie within the boundaries of a Class IV or V school district, the affected school board of the city school district or its representative and the affected school board or boards serving the

territory subject to the final plat or replat or their representative shall meet within thirty days of such application and negotiate in good faith as to which school district shall serve the platted or replatted territory and the effective date of any transfer based upon the criteria prescribed in subsection (2) of this section.

If no agreement has been reached prior to the approval of the final plat or replat, the territory shall transfer to the school district of the city of the first or second class upon the filing of the final plat unless an affected school district petitions the district court within ten days of approval of the final plat or replat and obtains an order enjoining the transfer and requiring the affected school boards to continue negotiation. The court shall issue the order upon a finding that the affected board or boards have not negotiated in good faith based on one or more of the criteria listed in subsection (2) of this section. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the platted or replatted territory shall become a part of the school district of the city of the first or second class.

(5) Notwithstanding any other provisions of this section, all negotiated agreements relative to boundaries or to real or personal property of school districts reached by the affected boards of education shall be valid and binding.

Sec. 7. That section 79-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-901. The territory now or hereafter embraced within each incorporated primary city of the primary class in the State of Nebraska, such adjacent territory as now or hereafter may be included therewith for school purposes, and such territory not adjacent thereto as may have been added thereto by law, shall constitute a school district of the fourth class, and be known by the name of the School District of (name of city) in the county of (name of county) in the State of Nebraska. As such it It shall be a body corporate and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate, and contract such obligations as are authorized by law including, but not limited to, the power to adopt, administer, and amend from time to time such

retirement, annuity, insurance, and other benefit plans for its present and future employees after their retirement, or any reasonable classification thereof, as may be deemed proper by the board of education. ~~The ; PROVIDED, that the board of education shall not be authorized to establish a retirement system for new employees supplemental to the School Employees Retirement System.~~

The title to all property, real or personal, owned by such school district shall, upon the organization thereof, vest immediately in the school district so created. The board of education shall have exclusive control of all property belonging to the school district. ~~In ; PROVIDED, that in the discretion of the board of education, funds accumulated in connection with a retirement plan may be transferred to and administered by a trustee or trustees to be selected by the board of education, or if the retirement plan shall be in the form of annuity or insurance contracts, such funds, or any part thereof, may be paid to a duly licensed insurance carrier or carriers selected by the board of education. Funds accumulated in connection with any such retirement plan, and any other funds of the school district which are not immediately required for current needs or expenses, may be invested and reinvested by the board of education, or by its authority, in securities of a type permissible either for the investment of funds of a domestic legal reserve life insurance company or for the investment of trust funds, according to the laws of the State of Nebraska.~~

Sec. 8. That section 79-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1001. Each incorporated ~~metropolitan~~ city of the metropolitan class in the State of Nebraska shall constitute one school district of the fifth class, ~~and be known by the name of The School District of (name of city), in the county of (name of county), in the State of Nebraska.~~ As such ~~in that name it~~ it shall be a body corporate and possess all the usual powers of a corporation for public purposes, ~~and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate, and control such obligations as are authorized by law.~~

Sec. 9. That section 79-1032, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1032. As used in sections 79-1032 to 79-1060, unless the context otherwise requires:

(1) Retirement system or system shall mean the School Employees' Retirement System of the School District of (name of city) (corporate name of the school district as described in section 79-401) as provided for in sections 79-1032 to 79-1060;

(2) Board shall mean the board of education of the school district;

(3) Trustee shall mean the trustees provided for in section 79-1034;

(4) Employee shall mean the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not teachers, hired upon a full-time basis, which basis shall contemplate a work week of not less than thirty hours;

(5) Member shall mean any employee included in the membership of the retirement system or any former employee who shall have made contributions to the system and shall not have received a refund;

(6) Annuitant shall mean any member receiving an allowance;

(7) Beneficiary shall mean any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service shall mean service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district;

(9) Prior service shall mean service rendered prior to September 1, 1951, for which credit is allowed under section 79-1044, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-1043, 79-1045, 79-1049.02, and 79-1049.03;

(10) Creditable service shall mean the sum of the membership service and the prior service;

(11) Compensation shall mean salary or wages payable by the school district;

(12) Military service shall mean service in the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or any women's auxiliary thereof;

(13) Accumulated contributions shall mean the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest shall mean interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by

the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during such year;

(15) Retirement date shall mean the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date shall mean the end of the fiscal year during which the member attains age sixty-five;

(17) Early retirement date shall mean that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance shall mean the total annual retirement benefit payable to a member for service or disability;

(19) Annuity shall mean annual payments, for both prior service and membership service, for life as provided in sections 79-1032 to 79-1060;

(20) Actuarial tables shall mean:

(a) For retirement allowances at an early retirement date, a unisex mortality table using thirty percent of the male mortality and seventy percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually;

(21) Actuarial equivalent shall mean the equality in value of the retirement allowance for early retirement or the retirement allowance for a joint and survivorship annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in

benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Withdrawal from service shall mean complete severance of employment of a member as an employee of the school district by resignation, discharge, or dismissal; and

(23) Fiscal year shall mean the period beginning September 1 in any year and ending on August 31 of the next succeeding year.

Sec. 10. That section 79-1033, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1033. In every Class V school district in the State of Nebraska there is hereby established a retirement system for all regular employees of such school district. The retirement system as established shall begin operation upon a date to be designated by the board of education of such district, not later than six months from May 21, 1951. Such system shall be for the purpose of providing retirement benefits for all regular employees of the school district as hereinafter provided. It shall be known as School Employees' Retirement System of the School District of (name of city) (corporate name of the school district as described in section 79-401). By such name all of its business shall be transacted and all of its funds shall be invested and all of its cash and securities and other property shall be held in trust for the purposes set forth in sections 79-1032 to 79-1060. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

Sec. 11. That section 79-1040, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1040. The treasurer of the county in which the school district is located shall be ex officio treasurer of the system, and such treasurer shall act as official custodian of the cash and securities belonging to the system, and shall provide adequate safe deposit facilities for the preservation of such securities, and shall hold such cash and securities subject to the order of the board of education. Such treasurer ; he shall receive all items of taxes or cash belonging to the system, and shall deposit in banks approved by the board of education all such amounts in a trust account secured by collateral in accordance with the depository law, and shall submit a monthly report to the board of all such transactions. Such treasurer ; he

shall make payments for purposes specified in sections 79-1032 to 79-1060 upon warrants issued according to law by the board of education designated Retirement Fund, (corporate name of the school district as described in section 79-401), School District of ----- and signed by the president and secretary of the board of education. The treasurer shall furnish a corporate surety bond payable to the school district and acceptable to the board, in such amount as the board shall designate. Such, and such bond shall be in addition to his or her bond as treasurer ex officio of the school district, and the cost of such bond to shall be paid by the school district.

Sec. 12. That section 79-2203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2203. (1) Each educational service unit shall be governed by a board to be known as the Board of Educational Service Unit No. The educational service unit board shall consist of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. Successors to the members initially appointed shall be elected for terms of four years. County candidates shall file their written applications with the county clerk or election commissioner no later than August 1 prior to the general election. Candidates for the position of members at large shall file their written applications with the Secretary of State no later than August 1 prior to the general election. No filing fee shall be required. Vacancies in office shall occur as set forth in section 32-1037. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the geographical boundaries of the educational service unit to fill such vacancy for the balance of the unexpired term. Members of the board shall receive no compensation for their services but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties under sections 79-2201 to 79-2224 as provided in sections 81-1174 to 81-1177 for state employees.

(2) Any local joint school district located in two or more counties shall be considered a part of the

educational service unit in which the greater number of school-age children of such joint school district reside. All qualified electors of any such joint school district shall be eligible to hold office as the county representative of the county in which the greater number of school-age children reside. Any qualified elector of any joint school district shall be eligible to hold office as the at-large representative if such elector resides within the geographical boundary of the school district comprising the educational service unit.

(3) The administrator of each educational service unit, prior to March 1 of each year in which a state primary election is to be held, shall certify to the county clerk of each county located within the unit the names and numbers corporate name of each school district, as described in section 79-401, located within the county. If a school district is a joint school district located in two or more counties or two or more educational service units, the administrator shall certify to each county clerk the unit or county of which the school district is considered to be a part.

Sec. 13. That section 79-2305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2305. The board of education of the proposed parent district shall either reject the petitions or recommend their approval. If the petitions are rejected, no further action shall be taken thereon, and the proposed federation shall not be formed. If approval of the petitions is recommended, the board of education shall submit the question of the formation of the proposed federation to the voters of the proposed parent district at the next general election at which members of the board of education are elected or at a special election called for that purpose. If a majority of the persons voting on such issue vote for the proposition, the federation shall be formed and shall commence operating as such on July 1 next following the election. The proposition shall be submitted on the ballot in substantially the following form:

Shall the School District of {name of city} in the county of {name of county} in the State of Nebraska (corporate name of the school district as described in section 79-401) enter into a federation of school districts with School Districts Number _____ and _____ of _____ County (corporate names of the school districts as described in section 79-401)?

.... For

.... Against

Sec. 14. That section 79-2307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2307. (1) An associate district may withdraw from a federation in the manner provided for the formation of a federation, except that a determination by the county superintendent that petitions seeking such withdrawal have been signed by at least fifty-five percent of the legal voters of the district shall authorize the withdrawal, if such petition for withdrawal has been submitted to the board of education of each associate district which participated in the original formation of the federation and the boards of such associate districts approve the withdrawal, and no further action shall be necessary. No such withdrawal shall be effective until the second June 30 following the determination by the county superintendent. All taxes which have been lawfully levied for federation purposes shall be collected and paid into the treasury of the federation as though such withdrawal had not occurred. If, after such withdrawal, the resulting federation would not meet the requirements provided by section 79-2302 for formation of a federation, the federation shall thereupon be dissolved, otherwise it shall continue without the withdrawn school district.

(2) The parent district may withdraw from, and thereby dissolve, the federation in the manner provided for approval of the petitions for formation of the federation. The question for such withdrawal shall be submitted on the ballot in substantially the following form:

Shall the School District of {name of city} in the county of {name of county} in the State of Nebraska {corporate name of the school district as described in section 79-401} withdraw from the Federation of School Districts of County?

.... For withdrawal

.... Against withdrawal

Sec. 15. That original sections 10-209, 79-312.01, 79-401, 79-488.05, 79-801, 79-901, 79-1001, 79-1032, 79-1033, 79-1040, 79-2203, 79-2305, and 79-2307, Reissue Revised Statutes of Nebraska, 1943, and section 32-223, Revised Statutes Supplement, 1986, and also section 79-1905, Reissue Revised Statutes of Nebraska, 1943, are repealed.