

## LEGISLATIVE BILL 835

Approved by the Governor April 7, 1988

Introduced by Beyer, 3

AN ACT relating to schools; to amend section 79-801, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to replatting in Class III school districts as prescribed; to repeal the original section; and to declare an emergency.

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

Section 1. 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 School 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 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.

For purposes of this subsection, plat and replat shall apply only to (a) vacant land, (b) land under cultivation, or (c) any plat or replat of land involving a substantive change in the size or configuration of any lot or lots.

(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. 2. That original section 79-801, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.