

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1243

Introduced by Kremer, 34; Baker, 44; Burling, 33; Fischer, 43; Kopplin, 3; McDonald, 41; Schrock, 38; Stuhr, 24; Stuthman, 22

Read first time January 18, 2006

Committee: Education

A BILL

1 FOR AN ACT relating to school organization and reorganization;
2 to amend section 79-234, Reissue Revised Statutes
3 of Nebraska, and section 79-473, Revised Statutes
4 Supplement, 2005; to change provisions related to
5 eligibility for the enrollment option program; to provide
6 for arbitration for disputes involving certain school
7 districts over annexed, platted, or replatted territory;
8 to harmonize provisions; and to repeal the original
9 sections.

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

1 Section 1. Section 79-234, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-234 (1) An enrollment option program is hereby
4 established to enable any kindergarten through twelfth grade
5 Nebraska student to attend a school in a Nebraska public school
6 district in which the student does not reside subject to the
7 limitations prescribed in section 79-238. The option shall be
8 available only once to each student prior to graduation unless (a)
9 the student relocates in a different resident school district, (b)
10 the option school district merges with another district, or (c) the
11 option school district is a Class I district. The option student
12 shall be given the option to attend school in another district at
13 the time of relocation or merger or upon completion of the grades
14 offered at the Class I district.

15 (2) The program shall not apply to ~~(a)~~ any student
16 who resides in a Class I district which has not affiliated and
17 which contracts or has contracted in either or both of the two
18 prior school years with another district or districts in such
19 student's grade level pursuant to section 79-598. ~~or (b) any~~
20 ~~student who resides in a district which has entered into an~~
21 ~~annexation agreement pursuant to section 79-473, except that such~~
22 ~~student may transfer to another district which accepts option~~
23 ~~students.~~

24 Sec. 2. Section 79-473, Revised Statutes Supplement,
25 2005, is amended to read:

1 79-473 ~~(1)~~ If the territory annexed by a change of
2 boundaries of a city or village which lies within a Class III
3 school district as provided in section 79-407 has been part of a
4 Class IV or Class V school district prior to such annexation, a
5 merger of the annexed territory with the Class III school district
6 shall become effective only if the merger is approved by a majority
7 of the members of the school board of the Class IV or V school
8 district and a majority of the members of the school board of the
9 Class III school district within ninety days after the effective
10 date of the annexation ordinance.

11 ~~(2)~~ Notwithstanding subsection ~~(1)~~ of this section, when
12 (1) (a) When territory which lies within a Class III school
13 district, Class VI school district, or Class I school district
14 which is attached to a Class VI school district or which does
15 not lie within a Class IV or V school district Class I, II, III,
16 or VI school district is annexed by a city or village pursuant
17 to section 79-407, the affected school board of the city or
18 village school district and the affected school board or boards
19 serving the territory subject to the annexation ordinance shall
20 meet within thirty days after the effective date of the annexation
21 ordinance and negotiate in good faith as to which school district
22 shall serve the annexed territory and the effective date of any
23 transfer. During the process of negotiation, the affected boards
24 shall consider the following criteria:

25 ~~(a)~~ (i) The educational needs of the students in the

1 affected school districts;

2 ~~(b)~~ (ii) The economic impact upon the affected school
3 districts;

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

7 ~~(d)~~ (iv) Community educational planning; and

8 (v) Building usage and planning.

9 (b) If no agreement has been reached within ninety days
10 after beginning negotiations pursuant to subdivision (a) of this
11 subsection, the decision as to which school district will serve the
12 annexed territory shall be determined by the parties submitting the
13 matter to arbitration in accordance with the Uniform Arbitration
14 Act. An arbitrator shall consider the criteria set forth in
15 subdivisions (a)(i) through (v) of this subsection in reaching a
16 decision. The costs of arbitration shall be shared by the affected
17 school districts. the effective date of the annexation ordinance,
18 the territory shall transfer to the school district of the annexing
19 city or village ten days after the expiration of such ninety-day
20 period unless an affected school district petitions the district
21 court within the ten-day period and obtains an order enjoining the
22 transfer and requiring the boards of the affected school districts
23 to continue negotiation. The court shall issue the order upon a
24 finding that the affected board or boards have not negotiated in
25 good faith based on one or more of the criteria listed in this

1 ~~subsection.~~ The district court shall require no bond or other
2 surety as a condition for any preliminary injunctive relief. If no
3 agreement is reached after such order by the district court and
4 additional negotiations, the annexed territory shall become a part
5 of the school district of the annexing city or village.

6 ~~(3)~~ (2) If, within the boundaries of the annexed
7 territory, there exists a school building, facilities, or land
8 owned by any class of school district, the school building,
9 facilities, or land shall remain a part of the school district
10 owning the school building, facilities, or land prior to the
11 annexation. If the school district owning the school building,
12 facilities, or land wishes to dispose of such school building,
13 facilities, or land to any individual or political subdivision, the
14 question of such disposition shall be placed on the ballot for the
15 next primary or general election. All legal voters of such school
16 district shall then vote on the question at such election. A simple
17 majority of the votes cast shall resolve the issue.

18 ~~(4)~~ (3) (a) Whenever an application for approval of a
19 final plat or replat is filed for territory which lies within the
20 zoning jurisdiction of a city of the first or second class and does
21 not lie within the boundaries of a Class IV or V school district,
22 the affected school board of the school district within the city of
23 the first or second class or its representative and the affected
24 board or boards serving the territory subject to the final plat or
25 replat or their representative shall meet within thirty days after

1 such application and negotiate in good faith as to which school
2 district shall serve the platted or replatted territory and the
3 effective date of any transfer. During the process of negotiation,
4 the affected boards shall consider the following criteria:

5 (i) The educational needs of the students in the affected
6 school districts;

7 (ii) The economic impact upon the affected school
8 districts;

9 (iii) Any common interests between the platted or
10 replatted area and the affected school districts and the city which
11 has zoning jurisdiction over the area;

12 (iv) Community educational planning; and

13 (v) Building usage and planning. based upon the criteria
14 prescribed in subsection (2) of this section.

15 (b) If no agreement has been reached within ninety
16 days after beginning negotiations pursuant to subdivision (a) of
17 this subsection, the decision as to which school district will
18 serve the annexed territory shall be determined by the parties
19 submitting the matter to arbitration in accordance with the Uniform
20 Arbitration Act. An arbitrator shall consider the criteria set
21 forth in subdivisions (a)(i) through (v) of this subsection in
22 reaching a decision. The costs of arbitration shall be shared by
23 the affected school districts. prior to the approval of the final
24 plat or replat, the territory shall transfer to the school district
25 of the city of the first or second class upon the filing of

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

13 (c) For purposes of this subsection, plat and replat
14 apply only to ~~(a)~~ (i) vacant land, ~~(b)~~ (ii) land under cultivation,
15 or ~~(e)~~ (iii) any plat or replat of land involving a substantive
16 change in the size or configuration of any lot or lots.

17 ~~(5)~~ (4) Notwithstanding any other provisions of this
18 section, all negotiated agreements relative to boundaries or to
19 real or personal property of school districts reached by the
20 affected school boards shall be valid and binding.

21 Sec. 3. Original section 79-234, Reissue Revised Statutes
22 of Nebraska, and section 79-473, Revised Statutes Supplement, 2005,
23 are repealed.