

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB977

Hearing Date: February 04, 2008

Committee On: Education

Introducer(s): (Raikes)

Title: Provide for freeholders petitions relating to school districts which exceed certain levy limitations

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

7 Yes	Senators Adams, Ashford, Avery, Burling, Howard, Johnson, Raikes
0 No	
1 Absent	Senator Kopplin
0 Present, not voting	

Proponents:

Senator Ron Raikes
Tim Kalkowski
Les Graham
Jeff Kalkowski
Delight C. Hull
Chris Kalkowski

Representing:

Introducer
Self
Self
Self
Self
Self

Opponents:

Representing:

Neutral:
Virgil Horne

Representing:
Lincoln Public Schools

Summary of purpose and/or change:

Legislative Bill 977 would amend § 79-458 by adding a new set of criteria to allow land to be transferred to another school district in a process commonly referred to as “freeholding.” Currently land in a Class II or III school district may be moved out of the district to a contiguous school district if:

- a. The district has less than 60 students in grades 9-12 for 2 years;
- b. The district has voted to exceed the maximum levy;
- c. The high school is within 15 miles of another high school; and
- d. Neither district is a member of a learning community.

The proposal would also allow such transfers of land out of any class of school district to a contiguous district if the original district has approved a budget that will cause the combined levies to exceed the greater of:

- a. The maximum levy authorized by statute plus \$0.15; or
- b. The maximum levy authorized by a vote.

The deadline for approving a petition to transfer land would be moved up from November 1 to August 1. The effective date for the transfer would also be moved up from January 1 to September 1. Appeals would need to be filed on or before August 10, instead of within 20 days of the action of the board or of November 1 if the board fails to take action. Despite the filing of an appeal, the transfer would occur on September 1 if the board either approved the transfer or failed to act and the court does not take action to prevent the transfer.

Clarifying language is also added to the current freeholding provisions.

The measure contains an emergency clause.

Explanation of amendments, if any:

The amendment combines the unification provisions of LB 976 and the freeholding provisions of 977, with modifications to both proposals.

Unified Systems – LB 976

The provisions amended in from LB 976 would modify § 79-4,108 by providing a method and requirements for the dissolution of a unified system or the withdrawal of a school district from a unified system and by limiting the creation of new unifications. Unifications are interlocal agreements approved by the Committee for the Reorganization of School Districts, which join

two or more school districts into a unified system to be treated as a single district for most purposes.

The withdrawal of a participating district or dissolution of a unified system would require each participating district to either be merged with at least one other district or continue participation in the unified system with at least one other district. In the event of a withdrawal or dissolution, the rights and liabilities of the participating district would be determined through an action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act. Such action could be brought by the school board of any participating school district. The court would have jurisdiction to determine all matters relating to the rights and liabilities of participating districts, including the allocation of:

- a. Certificated staff;
- b. Real and personal property in the name of the unified system;
- c. Local, state, and federal revenue, including state aid to be paid for the year following the withdrawal or dissolution; and
- d. Liability for the repayment of incentive aid, which would be subtracted from the state aid to be paid for the year following the withdrawal or dissolution.

The Department of Education would implement and enforce all terms of such decree of declaratory judgment.

New unifications could not be created after the effective date of the act. The Committee for the Reorganization of School Districts could approve the addition of new school districts to an existing unified system and the continuation of an existing unified system with two or more school districts.

The modifications to the provisions of the original LB 976 would continue to allow new school districts to join an existing unified system.

Freeholding – LB 977

The provisions retained from the original LB 977 would amend § 79-458 by adding a new set of criteria to allow land to be transferred to another school district in a process commonly referred to as “freeholding.” Currently land in a Class II or III school district may be moved out of the district to a contiguous school district if:

- a. The district has less than 60 students in grades 9-12 for 2 years;
- b. The district has voted to exceed the maximum levy;
- c. The high school is within 15 miles of another high school; and
- d. Neither district is a member of a learning community.

The proposal would also allow such transfers of land out of any class of school district to a contiguous district if the original district has approved a budget that will cause the combined levies to exceed the greater of:

- a. \$1.20; or
- b. The maximum levy authorized by a vote.

The amendment would add clarification that was not in the original bill providing that all levies, except bonded indebtedness approved by the voters, are included in the combined levies

considered in the new set of freeholding criteria. The levy for triggering freeholding was also clarified as \$1.20, where the original language described the levy as \$0.15 above the maximum levy.

The deadline for approving a petition to transfer land would be moved up from November 1 to July 15. The original bill provided an approval deadline of August 1. The effective date for the transfer would also be moved up from January 1 to August 15. The original provisions made the transfers effective September 1, but that date is after valuations are certified on August 20. Language is also included in the amendment to clarify that the transfers are effective for levies set in the year in which the transfer occurs. Appeals would need to be filed on or before August 1, instead of within 20 days of the action of the board or of November 1 if the board fails to take action. The original bill provided an appeal deadline of August 10. Despite the filing of an appeal, the transfer would occur on August 15 if the board either approved the transfer or failed to act and the court does not take action to prevent the transfer.

Clarification would be added that the freeholding transfers do not detach obligations for voter-approved bonds from the any tract of land. Clarifying language would also be added to the current provisions.

There would be an exception to the new set of criteria for levies set in 2007 for the 2007-08 school fiscal year if the school district filed a binding resolution prior to May 9, 2008 stating that the combined levies for 2008, excluding voter approved bonds, would not exceed the greater of \$1.20 or the maximum levy authorized by the voters. This exception was not contained in the original bill.

A new subsection in § 77-3442 would state that for school districts that file such binding resolution, if the combined levies, excluding voter approved bonds, exceed the greater of \$1.20 or the maximum levy authorized by the voters, the levies would be unauthorized.

The amendments would continue to contain an emergency clause.

Senator Ron Raikes, Chairperson