

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 230

Introduced By: Raikes, 25
Read first time: January 9, 2007
Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-498, Reissue
2 Revised Statutes of Nebraska, section 79-458, Revised
3 Statutes Cumulative Supplement, 2006, and section 79-499,
4 Revised Statutes Cumulative Supplement, 2006, as affected by
5 Referendum 2006, No. 422; to change provisions relating to
6 resident students for purposes of certain reorganizations as
7 prescribed; to harmonize provisions; and to repeal the
8 original sections.

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

1 Section 1. Section 79-458, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 79-458. (1) Any freeholder or freeholders, person in
4 possession or constructive possession as vendee pursuant to a contract
5 of sale of the fee, holder of a school land lease under section
6 72-232, or entrant upon government land who has not yet received a
7 patent therefor may file a petition with a board consisting of the
8 county assessor, county clerk, and county treasurer, asking to have
9 any tract or tracts of land described in the petition set off from an
10 existing Class II or III school district in which the land is situated
11 and attached to an accredited district which is contiguous to such
12 tract or tracts of land if:

13 (a) The Class II or III school district has had ~~an~~ in the
14 average daily membership in grades nine through twelve ~~of~~ less than
15 sixty resident students for the two consecutive school fiscal years
16 immediately preceding the filing of the petition;

17 (b) The Class II or III school district has voted to exceed
18 the maximum levy established pursuant to subdivision (2)(a) of section
19 77-3442, which vote is effective for the school fiscal year in which
20 the petition is filed or for the following school fiscal year;

21 (c) The high school is within fifteen miles on a maintained
22 public highway or maintained public road of another high school; and

23 (d) Neither school district is a member of a learning
24 community.

25 For purposes of determining whether a tract of land is
26 contiguous, all petitions currently being considered by the board
27 shall be considered together as a whole.

1 (2) The petition shall state the reasons for the proposed
2 change and shall show with reference to the land of each petitioner:
3 (a) That (i) the land described in the petition is either owned by the
4 petitioner or petitioners or that he, she, or they hold a school land
5 lease under section 72-232, are in possession or constructive
6 possession as vendee under a contract of sale of the fee simple
7 interest, or have made an entry on government land but have not yet
8 received a patent therefor and (ii) such tract of land includes all
9 such contiguous land owned or controlled by each petitioner; (b) that
10 the land described in the petition is located in a Class II or III
11 district that is not a member of a learning community, the district
12 has had ~~an~~ in the average daily membership in grades nine through
13 twelve ~~of~~ less than sixty resident students for the two
14 consecutive school fiscal years immediately preceding the filing of
15 the petition, the district has voted to exceed the maximum levy
16 established pursuant to subdivision (2)(a) of section 77-3442 as
17 provided in subdivision (1)(b) of this section, and the land is to be
18 attached to an accredited school district which is contiguous to such
19 tract or tracts of land and which is not a member of a learning
20 community; and (c) that such petition is approved by a majority of the
21 members of the school board of the district to which such land is
22 sought to be attached.

23 (3) The petition shall be verified by the oath of each
24 petitioner. Notice of the filing of the petition and of the hearing on
25 such petition before the board constituted as prescribed in subsection
26 (1) or (4) of this section shall be given at least ten days prior to
27 the date of such hearing by one publication in a legal newspaper of

1 general circulation in each district and by posting a notice on the
2 outer door of the schoolhouse in each district affected thereby, and
3 such notice shall designate the territory to be transferred. Such
4 board shall, after a public hearing on the petition and a
5 determination that all requirements of this section have been complied
6 with, change the boundaries of the school districts so as to set off
7 the land described in the petition and attach it to such district
8 pursuant to the petition.

9 (4) Petitions requesting transfers of property across county
10 lines shall be addressed jointly to the county clerks of the counties
11 concerned, and the petitions shall be acted upon by the county
12 assessors, county clerks, and county treasurers of the counties
13 involved as one board, with the county clerk of the county from which
14 the land is sought to be transferred acting as chairperson of the
15 board.

16 (5) Appeals may be taken from the action of such board or,
17 when such board fails to agree, to the district court of the county in
18 which the land is located within twenty days after entry of such
19 action on the records of the board by the county clerk of the county
20 in which the land is located or within twenty days after March 15 if
21 such board fails to act upon such petition, in the same manner as
22 appeals are now taken from the action of the county board in the
23 allowance or disallowance of claims against the county.

24 (6) This section does not apply to any school district
25 located on an Indian reservation and substantially or totally financed
26 by the federal government.

27 For purposes of this section, when calculating the number

1 of resident students in the fall school district membership or average
2 daily membership, a resident school district as defined in section
3 79-233 shall not count option students as defined in such section,
4 foreign exchange students, or students who are wards of the court or
5 state who would not be considered resident students pursuant to
6 subsection (1) of section 79-215 without the exception provided in
7 subsection (7) of such section.

8 Sec. 2. Section 79-498, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-498. When, for a period of one school term, a school
11 district (1) has less than three legal voters residing in the district
12 or (2)(a) fails to maintain a public elementary school within the
13 district in which are enrolled and in regular attendance for at least
14 one thousand thirty-two hours one or more ~~pupils of school age~~
15 ~~residing in the district, other than option students as defined in~~
16 ~~section 79-233, resident students~~ or (b) does not contract for the
17 tuition and transportation of ~~pupils~~ resident students of such
18 district with another district or districts and have ~~pupils~~
19 resident students attending school regularly for at least one
20 thousand thirty-two hours under such contract or contracts, the State
21 Committee for the Reorganization of School Districts shall, subject to
22 the requirements of this section, dissolve such district and attach
23 the territory of such district to one or more neighboring school
24 districts. Before dissolving a district under this section, the state
25 committee shall fix a time for a hearing and ~~shall notify each legal~~
26 ~~resident of the district at least fifteen days before such hearing.~~
27 notice shall be given at least fifteen days prior to the date of

1 such hearing by publication at least once in a legal newspaper of
2 general circulation in the district. When the dissolution will
3 create extreme hardships on the ~~pupils~~ resident students of the
4 district affected, the State Board of Education may, on application by
5 the school board of the district, annually waive the requirements of
6 this section. Notification shall be by mail or by publication in a
7 newspaper of general circulation in the area.

8 If the state committee finds that the district is required
9 by this section to be dissolved, it shall enter an order dissolving
10 the district and directing the county clerk of the county in which
11 such district is located to attach the territory of such district to
12 one or more neighboring school districts. Appeals from the action of
13 the state committee may be made to the district court of the county in
14 which the depopulated district is located. The county treasurer shall
15 distribute the assets of the closed district among the other district
16 or districts to which the property has been attached in proportion to
17 the taxable valuation of the property attached to such district or
18 districts.

19 For purposes of this section, when calculating the number
20 of resident students in the fall school district membership or average
21 daily membership, a resident school district as defined in section
22 79-233 shall not count option students as defined in such section,
23 foreign exchange students, or students who are wards of the court or
24 state who would not be considered resident students pursuant to
25 subsection (1) of section 79-215 without the exception provided in
26 subsection (7) of such section.

27 Sec. 3. Section 79-499, Revised Statutes Cumulative

1 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended
2 to read:

3 79-499. (1) Commencing with the 1992-93 school year, if in
4 the fall school district membership or the average daily membership
5 of an existing Class II or III school district ~~shows~~ there are
6 less than thirty-five resident students in grades nine through
7 twelve, the district shall submit a plan for developing cooperative
8 programs with other high schools, including the sharing of curriculum
9 and certificated and noncertificated staff, to the State Committee for
10 the Reorganization of School Districts. The cooperative program plan
11 shall be submitted by the school district by September 1 of the year
12 following such fall school district membership or average daily
13 membership report. A cooperative program plan shall not be required if
14 there is no high school within fifteen miles from such district on a
15 reasonably improved highway. The state committee shall review the plan
16 and provide advice and communication to such school district and other
17 high schools.

18 (2) If for two consecutive years the fall school district
19 membership, or for two consecutive years the average daily membership,
20 of an existing Class II or III school district ~~is~~ has less than
21 twenty-five ~~pupils~~ resident students in grades nine through twelve
22 or if for one year an existing Class II or III school district
23 contracts with a neighboring school district or districts to provide
24 educational services for all of its ~~pupils~~ resident students in
25 grades nine through twelve, such school district shall, except as
26 provided in subsection (3) of this section, become a Class I school
27 district through the order of the state committee if the high school

1 is within fifteen miles on a reasonably improved highway of another
2 high school.

3 This subsection does not apply to any school district
4 located on an Indian reservation and substantially or totally financed
5 by the federal government.

6 (3) Any Class II or III school district maintaining a
7 four-year high school which has ~~a~~ in the fall school district
8 membership or an average daily membership ~~of~~ less than twenty-five
9 resident students in grades nine through twelve may contract with
10 another school district to provide educational services for its
11 ~~pupils~~ resident students in grades nine through twelve. Such
12 contract may continue for a period not to exceed one year. At the end
13 of such one-year period, the school district may resume educational
14 services for grades nine through twelve if the average daily
15 membership in grades nine through twelve for such school district has
16 ~~reached~~ at least fifty resident students. If the school district
17 has not achieved such ~~fall school district membership or average~~
18 ~~daily~~ membership requirement, it shall become a Class I school
19 district by order of the state committee entered after thirty days'
20 notice to the district but without a hearing, notwithstanding the
21 distance on a reasonably improved highway to the nearest school
22 district conducting a high school.

23 (4) For purposes of this section, when calculating the
24 number of resident students in the fall school district membership or
25 average daily membership, a resident school district as defined in
26 section 79-233 shall not count ~~students attending an~~ option
27 ~~district~~ students as defined in such section, ~~and a Class II or~~

1 ~~III school district shall not count~~ foreign exchange students, or
2 ~~and nonresident~~ students who are wards of the court or state who
3 would not be considered resident students pursuant to subsection (1)
4 of section 79-215 without the exception provided in subsection (7) of
5 such section.

6 Sec. 4. Original section 79-498, Reissue Revised Statutes of
7 Nebraska, section 79-458, Revised Statutes Cumulative Supplement,
8 2006, and section 79-499, Revised Statutes Cumulative Supplement,
9 2006, as affected by Referendum 2006, No. 422, are repealed.