

## LEGISLATIVE BILL 219

Approved by the Governor May 16, 2007

Introduced by Dierks, 40; Dubas, 34

FOR AN ACT relating to schools; to amend section 79-458, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to petitions to transfer land between school districts; to repeal the original section; and to declare an emergency.

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

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

79-458 (1) Any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition on or before July 15 for 2007 and on or before June 1 for all other years with a board consisting of the county assessor, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from an existing Class II or III school district in which the land is situated and attached to an accredited district which is contiguous to such tract or tracts of land if:

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

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

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

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

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

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

(3) The petition shall be verified by the oath of each petitioner. Notice of the filing of the petition and of the hearing on such petition before the board constituted as prescribed in subsection (1) or (4) of this section shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby, and such notice shall designate the territory to be transferred. ~~Such board shall, after a public hearing on the petition and a determination that all requirements of this section have been complied with,~~ Following the filing of a petition pursuant to this section, such board shall hold a public hearing on the petition and, on or before November 1 following the filing of the petition, shall approve or disapprove the petition based on a determination of whether the petitioner has complied with all requirements of this section. If such board approves the petition, such board shall change the boundaries of the school districts so as to set off the land described in

the petition and attach it to such district pursuant to the petition.

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

(5) Appeals may be taken from the action of such board or, when such board fails to agree, to the district court of the county in which the land is located within twenty days after entry of such action on the records of the board by the county clerk of the county in which the land is located or within twenty days after ~~March 15~~ November 1 if such board fails to act upon such petition, in the same manner as appeals are now taken from the action of the county board in the allowance or disallowance of claims against the county.

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

(7) If approved by the board, the transfer shall take place on January 1 next following the filing of the petition.

Sec. 2. Original section 79-458, Revised Statutes Cumulative Supplement, 2006, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.