

LEGISLATIVE BILL 486

Approved by the Governor February 1, 1990

Introduced by Education Committee, Withem, 14,
Chairperson; Nelson, 35; Bernard-Stevens,
42; Crosby, 29; Dierks, 40; Chizek, 31

AN ACT relating to schools and school districts; to amend sections 79-403, 79-2202.05, and 79-2202.08, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the transfer of territory from one school district to another; to authorize the approval of mergers by a majority vote of an educational service unit board; to change time periods relating to the conduct of hearings and the making of decisions; and to repeal the original sections.

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

Section 1. That section 79-403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-403. (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 with the State Board of Education a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract of land described ~~therein~~ in the petition set off from a Class I, II, III, or VI district in which it is situated and attached to some other district in the petitioner's county of residence or a county adjoining thereto for the purpose of providing a better education for children of school age residing on the land to be transferred. In order for the petitioner to prove that the petition is in the best educational interests of such children, he, she, or they shall show a difference in the state accreditation of the schools involved. Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county

superintendent of the county from which the land is sought to be transferred acting as chairperson of the board. 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 therein 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 contiguous land owned or controlled by each petitioner; (b) that the district to which the land is to be attached is located in the petitioner's county of residence or a county adjoining thereto; (c) that the land proposed to be attached has children of school age who have resided thereon on such land with their parents or guardians for not less than forty days prior to filing the petition; and (d) that such petition is approved by a majority of members of the school board or board of education of the district to which such land is sought to be attached.

The State Board of Education board may, after a public hearing on the petition, thereupon change the boundaries of the districts so as to set off the land described in the petition and attach it to such adjoining district as is called for in the petition whenever the board determines that the elements of the petition have been proven, including that it is in the best educational interest, as defined in this section, of the children of school age residing on such land to do so. Notice of the filing of the petition and hearing thereon on such petition before the State Board of Education board 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 such notice shall designate the territory to be transferred. When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-490 shall not exceed beyond the boundary line of the receiving district that existed prior to the attachment of such land.

Appeals may be taken from the action of the State Board of Education board to the district court of the county in which the real estate land is located within twenty days after entry of such action on the records of the board. Transfer of property may be made

from an accredited district to an accredited Class VI district which is served by a nonaccredited Class I district if any student residing on the land to be transferred attends high school.

(2) 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 with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract or tracts of land described therein in the petition set off from a nonaccredited Class I, II, III, or VI district in which it is situated and attached to an accredited district in the county of the residence of the petitioner or an adjoining county thereto, and when such petition is for transfer of land from a Class I district which is part of a Class VI district, the petitioner shall be allowed to have such land attached to an adjoining accredited Class II, III, IV, or V district. 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 therein 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 proposed to be attached has children of school age who have resided thereon on such land with their parents or guardians for not less than forty days prior to filing the petition; (c) that the land described therein in the petition is located in a Class I, II, III, or VI school district as provided in this subsection; and is to be attached to an accredited school district in the county of the residence of the petitioner or an adjoining county thereto; and (d) that such petition is approved by a majority of the members of the school board or board of education of the district to which such land is sought to be attached. If the land sought to be transferred pursuant to this subsection is to be set off from a Class I, II, III, or VI district and attached to an accredited Class VI district, the land shall not be set off and attached to such Class VI district unless the petition states that the land shall be attached to a

Class I district located within the boundaries of such Class VI district, and a majority of the members of the school board or board of education of both such Class VI and Class I districts approve such petition. For purposes of this section, children of school age shall mean children who are attending public school or children who are not attending a public school in such district but who will attend a public school in the district to which the land will be attached. Failure of such children to attend a public school in the district to which the land is attached shall invalidate the transfer from the date of approval. The petition shall be verified by the oath of each petitioner. The board shall, after a public hearing on the petition and a determination that all requirements of this subsection have been complied with, change the boundaries of the districts so as to set off the land described in the petition and attach it to such adjoining district pursuant to the petition. Notice of the filing of the petition and of the hearing for such petition before the board 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. Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the real estate land is sought to be transferred acting as chairperson of the board. When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-490 shall not extend beyond the boundary line of the receiving district that existed prior to the attachment of such tract of land.

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 real estate 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 real estate land is located or within twenty days after March 15 if the board fails to act upon such petition as provided in section 79-1103.05 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.

Sec. 2. That section 79-2202.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2202.05. Petitions to the State Board of Education to change educational service unit boundaries shall include a description of the proposed boundaries and shall be accompanied by a plan of reorganization which shall include: (1) A summary of the reasons for the proposed reorganization; (2) a plan for the provision of services to school districts affected by any reorganization plan; ~~and~~ (3) in cases when a petition proposes the dissolution of an entire educational service unit or units for attachment to an existing educational service unit or for the merger of two or more educational service units into a new educational service unit, a summary of the terms on which such reorganization is made, including: (a) Provision for the utilization of existing facilities, equipment, and materials; and (b) provision for the disposition of assets and any unbonded indebtedness of affected educational service units; and (4) when a petition deals with the attachment of new territory to an existing educational service unit, verification of approval by majority vote of the receiving educational service unit governing board.

Sec. 3. That section 79-2202.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2202.08. The State Board of Education, within ~~sixty~~ ninety days from the receipt of any such petition, shall hold a public hearing on the proposed reorganization plan. At the board's option, it may appoint a hearing officer to conduct the public hearing and recommend a decision to the board. Within ~~ninety~~ one hundred twenty days from the receipt of such petition, the board shall approve or reject such petition. If the board rejects the petition, it shall clearly state its reasons for such rejection. Approved petitions for reorganization of educational service unit boundaries shall be referred to the appropriate county and educational service unit officials to implement the plan and make the necessary changes in the educational service unit maps and tax records.

Sec. 4. That original sections 79-403, 79-2202.05, and 79-2202.08, Reissue Revised Statutes of Nebraska, 1943, are repealed.