

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 219

Introduced By: Dierks, 40; Dubas, 34
Read first time: January 9, 2007
Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-458, Revised
2 Statutes Cumulative Supplement, 2006; to change provisions
3 relating to petitions to transfer land between school
4 districts; and to repeal the original section.
5 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 on or before June 1 with a board
8 consisting of the county assessor, county clerk, and county treasurer,
9 asking to have any tract or tracts of land described in the petition
10 set off from an existing Class II or III school district in which the
11 land is situated and attached to an accredited district which is
12 contiguous to such tract or tracts of land if:

13 (a) The Class II or III school district has had an average
14 daily membership in grades nine through twelve of less than sixty for
15 the two consecutive school fiscal years immediately preceding the
16 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 average daily membership in grades nine through twelve of
13 less than sixty for the two consecutive school fiscal years
14 immediately preceding the filing of the petition, the district has
15 voted to exceed the maximum levy established pursuant to subdivision
16 (2)(a) of section 77-3442 as provided in subdivision (1)(b) of this
17 section, and the land is to be attached to an accredited school
18 district which is contiguous to such tract or tracts of land and which
19 is not a member of a learning community; and (c) that such petition is
20 approved by a majority of the members of the school board of the
21 district to which such land is sought to be attached.

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

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

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

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

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

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

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