

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 630**

Introduced by Dierks, 40; Dubas, 34

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-458,  
2 Revised Statutes Cumulative Supplement, 2006; to change  
3 provisions relating to freeholder petitions; and to  
4 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  
5 contract of sale of the fee, holder of a school land lease  
6 under section 72-232, or entrant upon government land who has  
7 not yet received a patent therefor may file a petition with  
8 a board consisting of the county assessor, county clerk, and  
9 county treasurer, asking to have any tract or tracts of land  
10 described in the petition set off from an existing Class II or III  
11 school district in which the land is situated and attached to an  
12 accredited district which is contiguous to such tract or tracts of  
13 land if:

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

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

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

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

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

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

1 and (c) that such petition is approved by a majority of the members  
2 of the school board of the district to which such land is sought to  
3 be attached.

4 (3) The petition shall be verified by the oath of each  
5 petitioner. Notice of the filing of the petition and of the hearing  
6 on such petition before the board constituted as prescribed in  
7 subsection (1) or (4) of this section shall be given at least  
8 ten days prior to the date of such hearing by one publication  
9 in a legal newspaper of general circulation in each district and  
10 by posting a notice on the outer door of the schoolhouse in each  
11 district affected thereby, and such notice shall designate the  
12 territory to be transferred. Such board shall, after a public  
13 hearing on the petition and a determination that all requirements  
14 of this section have been complied with, change the boundaries of  
15 the school districts so as to set off the land described in the  
16 petition and attach it to such district pursuant to the petition.

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

24 (5) Appeals may be taken from the action of such board  
25 or, when such board fails to agree, to the district court of the

1 county in which the land is located within twenty days after entry  
2 of such action on the records of the board by the county clerk of  
3 the county in which the land is located or within twenty days after  
4 March 15 if such board fails to act upon such petition, in the same  
5 manner as appeals are now taken from the action of the county board  
6 in the allowance or disallowance of claims against the county.

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

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