

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 977

Introduced by Raikes, 25; Friend, 10.

Read first time January 15, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-458, Revised
2 Statutes Supplement, 2007; to change provisions relating
3 to freeholders' petitions; to harmonize provisions; to
4 repeal the original section; and to declare an emergency.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-458, Revised Statutes Supplement,
2 2007, 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 under
6 section 72-232, or entrant upon government land who has not yet
7 received a patent therefor may file a petition ~~on or before~~ before July
8 ~~15 for 2007~~ and on or before June 1 for all other years with
9 a board consisting of the county assessor, county clerk, and
10 county treasurer, asking to have any tract or tracts of land
11 described in the petition set off from an existing ~~Class II or III~~
12 school district in which the land is situated and attached to ~~an~~
13 accredited a different school district which is contiguous to such
14 tract or tracts of land if:

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

20 ~~(b)~~ The (ii) Such Class II or III school district has
21 voted pursuant to section 77-3444 to exceed the maximum levy
22 established pursuant to subdivision (2)(a) of section 77-3442,
23 which vote is effective for the school fiscal year in which the
24 petition is filed or for the following school fiscal year;

25 ~~(c)~~ (iii) The high school in such Class II or III school

1 district is within fifteen miles on a maintained public highway or
2 maintained public road of another public high school; and

3 ~~(d)~~ (iv) Neither school district is a member of a
4 learning community; or -

5 (b) The school district in which the land is situated,
6 regardless of the class of school district, has approved a budget
7 for the school fiscal year in which the petition is filed that will
8 cause the combined levies for such school fiscal year subject to
9 the limitations of subdivision (2) (a) or (2) (c) of section 77-3442
10 to exceed the greater of (i) the maximum levy established pursuant
11 to such subdivision plus fifteen cents or (ii) the maximum levy
12 authorized by a vote pursuant to section 77-3444.

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

16 (2) The petition shall state the reasons for the proposed
17 change and shall show with reference to the land of each
18 petitioner: (a) That (i) the land described in the petition is
19 either owned by the petitioner or petitioners or that he, she,
20 or they hold a school land lease under section 72-232, are in
21 possession or constructive possession as vendee under a contract
22 of sale of the fee simple interest, or have made an entry on
23 government land but have not yet received a patent therefor and
24 (ii) such tract of land includes all such contiguous land owned or
25 controlled by each petitioner; (b) that the ~~land described in the~~

1 petition is located in a Class II or III district that is not a
2 member of a learning community, the district has had an average
3 daily membership in grades nine through twelve of less than sixty
4 for the two consecutive school fiscal years immediately preceding
5 the filing of the petition, the district has voted to exceed the
6 maximum levy established pursuant to subdivision (2)(a) of section
7 77-3442 as provided in subdivision (1)(b) of this section, and the
8 land is to be attached to an accredited school district which is
9 contiguous to such tract or tracts of land and which is not a
10 member of a learning community, conditions of subdivision (1)(a) or
11 (1)(b) of this section have been met; and (c) that such petition is
12 approved by a majority of the members of the school board of the
13 district to which such land is sought to be attached.

14 (3) The petition shall be verified by the oath of each
15 petitioner. Notice of the filing of the petition and of the hearing
16 on such petition before the board constituted as prescribed in
17 subsection (1) or (4) of this section shall be given at least
18 ten days prior to the date of such hearing by one publication
19 in a legal newspaper of general circulation in each district and
20 by posting a notice on the outer door of the schoolhouse in each
21 district affected thereby, and such notice shall designate the
22 territory to be transferred. Following the filing of a petition
23 pursuant to this section, such board shall hold a public hearing
24 on the petition and, ~~on or before November 1 following the filing~~
25 ~~of the petition,~~ shall approve or disapprove the petition on or

1 before August 1 following the filing of the petition based on
2 a determination of whether the petitioner has complied with all
3 requirements of this section. If such board approves the petition,
4 such board shall change the boundaries of the school districts so
5 as to set off the land described in the petition and attach it to
6 such district pursuant to the petition with an effective date of
7 September 1 following the filing of the petition.

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

15 (5) Appeals may be taken from the action of such board
16 or, when such board fails to agree, act on the petition on or
17 before August 1 following the filing of the petition, to the
18 district court of the county in which the land is located ~~within~~
19 ~~twenty days after entry of such action on the records of the board~~
20 ~~by the county clerk of the county in which the land is located~~
21 ~~or within twenty days after November 1 if such board fails to act~~
22 ~~upon such petition,~~ on or before August 10 following the filing
23 of the petition, in the same manner as appeals are now taken from
24 the action of the county board in the allowance or disallowance of
25 claims against the county. If an appeal is taken from the action of

1 the board approving the petition or failing to act on the petition,
2 the transfer shall occur effective September 1 following the filing
3 of the petition, unless action by the district court prevents such
4 transfer.

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

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

10 Sec. 2. Original section 79-458, Revised Statutes
11 Supplement, 2007, is repealed.

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