

HOUSE BILL NO. 635

INTRODUCED BY R. SHAW

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA FOR TRANSFERRING TERRITORY BETWEEN SCHOOL DISTRICTS; REQUIRING A FILING FEE; AND AMENDING SECTION 20-6-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-6-105, MCA, is amended to read:

"20-6-105. Transfer of territory from one district to another -- hearing on effects of proposed transfer -- burden of proof -- standard of proof -- appeal to district court. (1) (a) Except as provided in 20-6-214, 20-6-215, 20-6-308, 20-6-322, and subsections (1)(b) and (1)(c) of this section, a petition to transfer territory from one school district to another may be presented to the county superintendent if:

(i) the petition is signed by 60% of the registered electors qualified to vote at general elections in the territory proposed for transfer;

(ii) the territory to be transferred is contiguous to the district to which it is to be attached; and includes taxable property, ~~and has school-age children living in it;~~

(iii) the territory to be transferred is not located within 3 miles, over the shortest practicable route, of an operating school in the district from which it is to be transferred; ~~and~~

(iv) the board of trustees of the school district that would receive the territory has approved the proposed transfer by a resolution adopted by a majority of the members of the board of trustees at a meeting for which proper notice was given; and

(v) the petition is accompanied by a \$10 filing fee.

(b) A petition to transfer territory to or from a K-12 district may not be presented to a county superintendent unless both school boards and the county superintendents have agreed in writing.

(c) Registered voters within the exterior boundaries of school districts that consolidated during the years 2004 to 2008 may petition for changes in their boundaries under the law in effect on July 1, 2005.

(2) Once a petition to transfer territory has been filed, an additional petition to transfer that territory may not be filed for 4 years unless the county superintendents have agreed in writing.

(3) The petition for a transfer of territory must be delivered to the county superintendent and must:



- 1 (a) provide a legal description of the territory that is requested to be transferred and a description of the
2 district to which the territory is to be transferred; and
- 3 (b) state the reasons why the transfer is requested; ~~and~~
- 4 ~~(c) state the number of school-age children residing in the territory.~~
- 5 (4) If both the trustees of the receiving and transferring school districts have approved the proposed
6 territory transfer in writing, the county superintendent shall grant the transfer.
- 7 (5) For any petition that meets the criteria specified in subsection (1) and contains the information
8 required by subsection (3) but that has not been approved in writing by the board of trustees of the school district
9 that would transfer the territory, the county superintendent shall:
- 10 (a) not more than 40 days after receipt of the petition, set a place, date, and time for a hearing to
11 consider the petition; and
- 12 (b) give notice of the place, date, and time of the hearing. The notice must be posted in the districts
13 affected by the petition for the transfer of territory in the manner prescribed in this title for notices for school
14 elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the
15 board of trustees of the school district from which the territory is to be transferred.
- 16 (6) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer, or
17 representative of the receiving or transferring district must, upon request, be heard. At the hearing, the petitioners
18 have the initial burden of presenting evidence on the proposed transfer's effect on:
- 19 (a) the educational opportunity for the students in the receiving and transferring districts, including but
20 not limited to:
- 21 (i) class size;
- 22 (ii) ability to maintain demographic diversity;
- 23 (iii) local control;
- 24 (iv) parental involvement; and
- 25 (v) the capability of the receiving district to provide educational services;
- 26 (b) student transportation, including but not limited to:
- 27 (i) safety;
- 28 (ii) cost; and
- 29 (iii) travel time of students;
- 30 (c) the economic viability of the proposed new districts, including but not limited to:

- 1 (i) the existence of a significant burden on the taxpayers of the district from which the territory will be
2 transferred;
- 3 (ii) the significance of any loss in state funding for the students in both the receiving and transferring
4 districts;
- 5 (iii) the viability of the future bonding capacity of the receiving and transferring districts, including but not
6 limited to the ability of the receiving district and the transferring district to meet minimum bonding requirements;
- 7 (iv) the ability of the receiving district and the transferring district to maintain sufficient reserves; and
8 (v) the cumulative effect of other transfers of territory out of the district in the previous 8 years on the
9 taxable value of the district from which the territory is to be transferred. In cases where the cumulative effect of
10 other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the district's
11 taxable value, the following additional factors must be considered and weighed in the decision:
- 12 (A) the district's rate of passage of discretionary levies placed before the voters over the previous 8 years;
13 (B) the district's reduction or elimination of instructional staff or programs over the previous 8 years; and
14 (C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if the
15 transfer is granted.
- 16 (7) After receiving evidence from both the proponents and opponents of the proposed territory transfer
17 on the effects described in subsection (6), the county superintendent shall, within 30 days after the hearing, issue
18 findings of fact, conclusions of law, and an order.
- 19 (8) If, based on a preponderance of the evidence, the county superintendent determines that the
20 evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the
21 best and collective interest of students in the receiving and transferring districts and does not negatively impact
22 the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the county
23 superintendent determines that, based on a preponderance of the evidence presented at the hearing, a transfer
24 of the territory is not in the best and collective interest of students in the receiving and transferring districts and
25 will negatively impact the ability of the districts to serve those students, the county superintendent shall deny the
26 territory transfer.
- 27 (9) The decision of the county superintendent is final 30 days after the date of the decision unless it is
28 appealed to the district court by a resident, taxpayer, or representative of either district affected by the petitioned
29 territory transfer. The county superintendent's decision must be upheld unless the court finds that the county
30 superintendent's decision constituted an abuse of discretion under this section.

