

HOUSE BILL NO. 634

INTRODUCED BY K. WAGONER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ELIGIBILITY CRITERIA AND THE PROCEDURE FOR AN EXISTING ELEMENTARY DISTRICT TO EXPAND INTO A K-12 SCHOOL DISTRICT; AND AMENDING SECTIONS 20-6-326 AND 20-9-502, MCA."

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

Section 1. Section 20-6-326, MCA, is amended to read:

"20-6-326. Procedure for creation of high school district solely for expansion into K-12 school district -- trustee resolution. (1) An existing elementary district that is not part of a unified school system or governed by a joint board with a high school district may create a high school district solely for the purpose of expanding an elementary district into a K-12 district only if the elementary district's ANB, calculated under the provisions of 20-9-311, is at least 1,000.÷

~~_____ (a) the nearest elementary school building is located at a distance of at least 40 miles from the nearest accessible high school;~~

~~_____ (b) the trip from the nearest elementary school building to the nearest accessible high school is 60 minutes or more over the shortest passable route;~~

~~_____ (c) periodically during the school year, the condition of the road makes it impractical to attend the nearest accessible high school; and~~

~~_____ (d) at least 50 high school students reside in the elementary district; and~~

~~_____ (e) the taxable valuation and boundaries of the combining elementary and high school district are the same.~~

(2) The creation of a new high school district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the county superintendent to order an election to allow the electors of the elementary district to consider the proposition to create a high school district solely for the purpose of expanding the elementary school district into a K-12 district. ~~Approval of the proposition results in a tax levy for payments as provided in subsection (6)(b).~~ When the trustees canvass the vote of a school district expansion election under this section, they shall determine

1 the approval or rejection of the expansion proposition in the following manner:

2 (a) Except as provided in subsection (2)(c), if the school district expansion election is held at a regular
3 school election or at a special election called by the trustees, the trustees shall:

4 (i) determine the total number of electors of the elementary school district who are qualified to vote under
5 the provisions of 20-20-301 from the list of electors provided by the county registrar for the school district
6 expansion election;

7 (ii) determine the total number of qualified electors voting at the school district expansion election from
8 the tally sheets for the election; and

9 (iii) calculate the percentage of qualified electors voting at the school district expansion election by
10 dividing the amount determined in subsection (2)(a)(ii) by the amount determined in subsection (2)(a)(i).

11 (b) When the calculated percentage in subsection (2)(a)(iii) is:

12 (i) 40% or more, the school district expansion proposition is approved and adopted only if a majority of
13 the votes were cast in favor of the proposition;

14 (ii) more than 30% but less than 40%, the school district expansion proposition is approved and adopted
15 only if 60% or more of the votes were cast in favor of the proposition; or

16 (iii) 30% or less, the school district expansion proposition is rejected.

17 (c) If the school district expansion election is held at a general election, at an election that is conducted
18 by mail ballot as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular
19 or primary election, the determination of the approval or rejection of the school district expansion proposition is
20 made by a majority of the votes cast on the issue.

21 (d) If the canvass of the vote establishes the approval and adoption of the school district expansion
22 proposition, the trustees shall issue a certificate proclaiming the passage of the proposition.

23 (3) If the proposition to create a high school district solely for the purpose of expanding the elementary
24 district into a K-12 district is approved by the electors of the district pursuant to subsection (2), the county
25 superintendent shall order an election to allow the electors of the elementary district to consider approval of a
26 transition costs tax levy at the next general or special election. Approval of the proposition results in a transition
27 costs tax levy for payments as provided in subsection (8)(b).

28 ~~(3)(4)~~ If the proposition for the expansion and the transition levy provided for in 20-9-502(6) into a K-12
29 district is approved by the electors of the elementary district and the trustees issue a certificate of election as
30 provided in 20-20-416, the county superintendent shall order the creation of the high school district and oversee

1 the expansion of the high school district into a K-12 district pursuant to 20-6-701.

2 (5) If the proposition for the transition levy for payments as provided in subsection (8) is approved by a
3 majority of the qualified electors of the elementary school district voting at the election and the trustees issue a
4 certificate of election under 20-20-416, the county superintendent shall report the amount of the levy requirement
5 to the county commissioners and a levy on the district must be made by the county commissioners in accordance
6 with 20-9-142.

7 ~~(4)(6)~~ The county superintendent shall send a copy of the order to the board of county commissioners
8 and to the trustees of the districts affected by the creation of the district.

9 ~~(5)(7)~~ If a new district is created, the effective date of its creation is the following July 1. The trustees of
10 the elementary district must be designated as the trustees of the new K-12 district.

11 ~~(6)(8)~~ Until the first school fiscal year in which the new K-12 district enrolls high school students in all
12 grades, the existing high school district shall provide high school instruction to students residing in the newly
13 created K-12 district with the K-12 district paying the existing high school district:

14 (a) tuition and transportation charged pursuant to the provisions of 20-5-320 and 20-5-321; and

15 (b) an amount equal to the BASE general fund mills for the existing high school district assessed against
16 the taxable valuation in the new K-12 district and funded using a building reserve fund levy for transition costs
17 as provided in 20-9-502. The payment to the existing high school district must be deposited in the district general
18 fund and used to reduce the BASE budget levy.

19 ~~(7) If bonded indebtedness has been approved by the voters of the existing high school district prior to~~
20 ~~April 12, 2007, but the bonds have not been sold prior to the creation of the new K-12 district, then the future~~
21 ~~indebtedness of those bonds when those bonds are sold must be paid by levies on the original territory.~~

22 (9) Upon creation of the high school district and expansion into a K-12 district, the trustees of the new
23 district shall enter into a multidistrict cooperative agreement with the existing high school district under the
24 provisions of 20-3-363. The agreement between the districts must address, at a minimum:

25 (a) how the districts will retire any bonded indebtedness approved by the voters of the existing high
26 school district prior to the voters' approval for the creation of a new high school district for the purpose of
27 expanding into a K-12 district;

28 (b) how the districts will address the transfer to the new district of property currently held in trust for the
29 mutual benefit of all students in the existing district, including but not limited to buses, machinery, textbooks, and
30 computers and related equipment.

1 (10) (a) If the school district trustees are unable to reach agreement as required under subsection (9),
2 the agreement must be referred to the county superintendent, who shall:

3 (i) not more than 40 days after the referral of the multidistrict cooperative agreement, set a place, date,
4 and time for a hearing to consider the unresolved issues; and

5 (ii) give notice of the place, date, and time of the hearing. The notice must be posted in the districts
6 affected by the multidistrict cooperative agreement in the manner prescribed in this title for notices for school
7 elections. Notice must also be delivered to the board of trustees in each of the districts affected.

8 (b) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer, or
9 representative of the existing or new district must, upon request, be heard. At the hearing, the trustees of the new
10 district have the initial burden of presenting evidence on the multidistrict cooperative agreement's effect on the
11 educational opportunity in the existing and new districts, including but not limited to:

12 (i) class size;

13 (ii) ability to maintain demographic diversity;

14 (iii) local control;

15 (iv) parental involvement;

16 (v) the capability of the new district to provide educational services;

17 (vi) student transportation, including but not limited to safety, cost, and travel time of students; and

18 (vii) the economic viability of the new district. This analysis must include but is not limited to the existence
19 of a significant burden on the taxpayers, the significance of any loss in state funding for students, the viability of
20 the future bonding capacity, and the ability to meet minimum bonding requirements in both the existing district
21 and the new district.

22 (c) After receiving evidence from representatives of the existing school district and the new school
23 district, the county superintendent shall, within 30 days of the hearing, issue a resolution for each of the issues
24 presented, which must be adopted into the multidistrict cooperative agreement between the existing district and
25 the new district. The resolution of the county superintendent is final 30 days after the date of its issuance unless
26 it is appealed to the district court by a resident, taxpayer, or representative of either district affected by the
27 multidistrict cooperative agreement. The county superintendent's resolution must be upheld unless the court finds
28 that the county superintendent's resolution constituted an abuse of discretion under this section.

29 ~~(8)~~(11) If the K-12 school district does not open and operate a high school within 3 5 years after the
30 effective date of the creation of the new district, the order of the county superintendent creating a new district

1 under this section is void, the new district ceases to exist, and the trustees of the new district have no capacity
2 to act. Those trustees retain authority as trustees of the elementary district."

3

4 **Section 2.** Section 20-9-502, MCA, is amended to read:

5 **"20-9-502. Purpose and authorization of building reserve fund by election -- levy for school**

6 **transition costs.** (1) The trustees of any district, with the approval of the qualified electors of the district, may
7 establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging
8 of school buildings, for the purpose of purchasing land needed for school purposes in the district, or for the
9 purpose of funding school transition costs as provided in subsections (5) and (6). In order to submit to the
10 qualified electors of the district a building reserve proposition for the establishment of or addition to a building
11 reserve, the trustees shall pass a resolution that specifies:

12 (a) the purpose or purposes for which the new or addition to the building reserve will be used;

13 (b) the duration of time over which the new or addition to the building reserve will be raised in annual,
14 equal installments;

15 (c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b);

16 and

17 (d) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

18 (2) Except as provided in subsections (5)(b) and (6), a building reserve tax authorization may not be for
19 more than 20 years.

20 (3) The election must be conducted in accordance with the school election laws of this title, and the
21 electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a
22 building reserve proposition must be substantially in compliance with 15-10-425.

23 (4) The building reserve proposition is approved if a majority of those electors voting at the election
24 approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of
25 the trustees for a building reserve is computed by dividing the total authorized amount by the specified number
26 of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for
27 the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district
28 for the same purpose or purposes for which the building reserve fund of the district was established. Whenever
29 a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the
30 building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

1 (5) (a) The trustees may submit a proposition to the qualified electors of the district for a levy to provide
2 funding for transition costs incurred when the trustees:

3 (i) open a new school under the provisions of Title 20, chapter 6;
4 (ii) close a school;
5 (iii) replace a school building; or
6 (iv) consolidate with or annex another district under the provisions of Title 20, chapter 6.

7 (b) Except as provided in subsections (5)(c) and (6), the total amount the trustees may submit to the
8 electorate for transition costs may not exceed the number of years specified in the proposition times the greater
9 of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year.
10 Except as provided in subsection (6), the duration of the levy for transition costs may not exceed 6 years.

11 (c) If the levy for transition costs is for consolidation or annexation:

12 (i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget
13 for the districts that are being combined; and
14 (ii) the proposition must be submitted to the qualified electors in the combined district.

15 (d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of
16 calculating the limitation in 20-9-406.

17 (6) The trustees of a K-12 district shall impose a levy for transition costs to fund the payment required
18 by 20-6-326(6)(b)(8)(b) when a proposition to create the K-12 district and a separate proposition to assess the
19 transition levy ~~has~~ have been approved pursuant to 20-6-326(2) through (4). The levy is limited to the amount
20 required by 20-6-326(6)(b)(8)(b) for a period not to exceed 3 years."

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