

SENATE BILL NO. 283

INTRODUCED BY MURPHY, T. BROWN, GALT, HANSEN, MALEK, MCNIVEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA FOR AN EXISTING ELEMENTARY DISTRICT TO BE ELIGIBLE TO EXPAND INTO A K-12 DISTRICT; AND AMENDING ~~SECTION~~ SECTIONS 20-6-105 AND 20-6-326, 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~~ subsection (1)(b) and (1)(c) of this section, a petition to transfer territory from one school district to another, including petitions to expand an elementary district into a K-12 district under 20-6-326, 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 or coterminous with the district to which it is to be attached, includes taxable property, and has school-age children ~~living~~ residing 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.

(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.

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

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

1 superintendent's decision constituted an abuse of discretion under this section. The effective date of the decision
 2 is July 1 following the issuance of the decision by the county superintendent.

3 (10) Whenever a petition to transfer territory from one district to another district creates a joint district or
 4 affects the boundary of an existing joint district, the petition to transfer territory must be delivered to the county
 5 superintendent of the county in which the territory proposed to be transferred is located. The county
 6 superintendent shall notify any other county superintendents of counties with districts affected by the petition, and
 7 the duties prescribed in this section for the county superintendent must be performed jointly. If the number of
 8 county superintendents involved is an even number, the county superintendents shall jointly appoint an additional
 9 county superintendent from an unaffected county to join them in conducting the hearing required in subsection
 10 (6) and in issuing the decision required in subsection (8). The decision issued under subsection (8) must be made
 11 by a majority of the county superintendents.

12 (11) A petition seeking to transfer territory out of or into a K-12 district must propose the transfer of
 13 territory for both elementary and high school purposes. In the case of a proposed transfer out of or into a K-12
 14 district, a petition that fails to propose the transfer of territory for both elementary and high school purposes is
 15 invalid for the purposes of this section.

16 (12) If bonded indebtedness has been approved by the voters of an existing school district prior to the
 17 transfer of territory, then the future indebtedness of those bonds when those bonds are sold must be paid by
 18 levies on the territory of the district as it existed at the time the bonded indebtedness was approved by the voters."

19

20 **Section 2.** Section 20-6-326, MCA, is amended to read:

21 **"20-6-326. Procedure for creation of high school district solely for expansion into K-12 school**
 22 **district -- trustee resolution.** (1) An existing elementary district ~~may~~ THAT IS NOT PART OF A UNIFIED SCHOOL
 23 SYSTEM OR GOVERNED BY A JOINT BOARD WITH A HIGH SCHOOL DISTRICT MAY SEEK TO create a high school district
 24 solely for the purpose of expanding an elementary district into a K-12 district ~~only if~~ PURSUANT TO THE PROCESS
 25 SET FORTH IN 20-6-105 ONLY IF THE ELEMENTARY DISTRICT'S ANB, CALCULATED AS PROVIDED IN 20-9-311, IS AT LEAST
 26 1,000. :

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

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

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

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

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

6 ~~_____ (2) The creation of a new high school district may be requested by the trustees of an existing elementary~~
 7 ~~district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the~~
 8 ~~county superintendent to order an election to allow the electors of the elementary district to consider the~~
 9 ~~proposition to create a high school district solely for the purpose of expanding the elementary school district into~~
 10 ~~a K-12 district. Approval of the proposition results in a tax levy for payments as provided in subsection (6)(b).~~

11 ~~_____ (3) If the proposition for the expansion and the transition levy provided for in 20-9-502(6) is approved~~
 12 ~~by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416;~~
 13 ~~the county superintendent shall order the creation of the high school district and oversee the expansion of the~~
 14 ~~high school district into a K-12 district pursuant to 20-6-701.~~

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

17 ~~_____ (5) If a new district is created, the effective date of its creation is the following July 1.~~

18 ~~(2) The trustees of the elementary district must be designated as the trustees of the new K-12 district.~~

19 ~~(6)(3) Until the first school fiscal year in which the new K-12 district enrolls high school students in all~~
 20 ~~grades, the existing high school district shall provide high school instruction to students residing in the newly~~
 21 ~~created K-12 district with the K-12 district paying the existing high school district:~~

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

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

27 ~~(7)(4) If bonded indebtedness has been approved by the voters of the existing high school district prior~~
 28 ~~to April 12, 2007, but the bonds have not been sold prior to the creation of the new K-12 district, then the future~~
 29 ~~indebtedness of those bonds when those bonds are sold must be paid by levies on the original territory OF THE~~
 30 ~~DISTRICT AS IT EXISTED AT THE TIME THE BONDED INDEBTEDNESS WAS APPROVED BY THE VOTERS.~~

