

LEGISLATIVE BILL 908

Approved by the Governor April 9, 1984

Introduced by Goodrich, 20; H. Peterson, 35; V. Johnson, 8; Newell, 26; Fenger, 45; Withem, 14; Schmit, 23; Hannibal, 4; Lundy, 36; Hoagland, 6; Higgins, 9; Labedz, 5; Pirsch, 10; Kilgarin, 7; Wagner, 41

AN ACT relating to schools; to amend section 79-801, Revised Statutes Supplement, 1983; to change provisions relating to changes in the boundaries of certain school districts; to provide for negotiations; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-801, Revised Statutes Supplement, 1983, be amended to read as follows:

79-801. (1) The territory embraced within the corporate limits of each incorporated city or village in the State of Nebraska, together with such additional territory and additions to such city or village as may be added thereto, as declared by ordinances to be boundaries of such city or village, having a population of more than one thousand and less than one hundred thousand inhabitants, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a school district of the third class and be known by the name of The School District of (name of city or village), in the county of (name of county), in the State of Nebraska. As such in that name, the district shall be a body corporate and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate property, and control such obligations as are authorized by law. The title to all school buildings or other property, real or personal, owned by any school district within the corporate limits of any city or village, shall, upon the organization of the district, vest immediately in the new district; and the board of education of the new district shall have exclusive control of the same for all purposes herein contemplated, except ~~7 PROVIDED;~~ that where ~~if~~ the territory annexed by a change of boundaries of such city has been part of a Class IV, ~~or V, or VI~~ school district prior to such annexation, a merger of the annexed territory with the Class III school district shall become effective only if the merger is approved by a majority of the members of the board of education of the Class IV or V school district and a majority of the members

of the board of education of the Class III school district within ninety days after the effective date of the annexation ordinance.

(2) Notwithstanding the provisions of subsection (1) of this section, when territory which lies within a Class III school district, Class VI school district, or Class I school district which is attached to a Class VI school district or which does not lie within a Class IV or V school district is annexed by a city or village pursuant to this section, the affected school board of the city or village district and the affected school board or boards serving the territory subject to the annexation ordinance shall meet within thirty days of the effective date of the annexation ordinance and negotiate in good faith as to which school district shall serve the annexed territory and the effective date of any transfer. During the process of negotiation, the affected school boards shall consider the following criteria:

(a) The educational needs of the students in the affected school districts;

(b) The economic impact upon the affected school districts;

(c) Any common interests between the annexed or platted area and the affected school districts and the community which has zoning jurisdiction over the area; and

(d) Community educational planning.

If no agreement has been reached within ninety days of the effective date of the annexation ordinance, the territory shall transfer to the school district of the annexing city or village ten days thereafter unless an affected district petitions the district court within the ten-day period and obtains an order enjoining the transfer and requiring the school boards of the affected districts to continue negotiation. The court shall issue the order upon a finding that the affected school board or boards have not negotiated in good faith based on one or more of the criteria listed in this subsection. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the annexed territory shall become a part of the school district of the annexing city or village. For more than one year prior thereto, having been annexed by petition, the question as to which district the annexed territory shall be part of shall be negotiated by the school boards of the school districts involved. If the majority of the members of each school board cannot reach agreement on such question within ninety days after the effective date of the city annexation ordinance, the question of which school district the annexed territory shall be a part of shall be placed on the ballot for the next primary or general election. The registered voters of all Class I districts which form the annexed territory

shall then vote on the question at such election. When a city or village subject to this section annexes territory in which registered voters reside and which has been part of a Class III school district for more than one year prior thereto, the issue of whether the area annexed shall remain a part of its current school district or whether it shall become part of the school district of the annexing city or village shall be submitted to the registered voters of the area annexed. The issue may be submitted at a primary, general, or special election. The election shall be conducted in the same manner, as nearly as possible, as other elections in such school district are conducted. Notice of the election to be held pursuant to this section shall be published at least once each week for three weeks prior to the election. The governing board of the school district of the annexing city or village shall call for the election and shall pay the costs of such election. A simple majority of votes cast shall resolve the issue.

(3) If, within the boundaries of the annexed territory, there exists a Class VI school, the school building, facilities, and land owned by the school district shall remain a part of the Class VI school district, notwithstanding any action taken by the school boards and notwithstanding the result of such election. If the Class VI school district from which territory is being annexed wishes to dispose of such school building, facilities, or land to any individual or political subdivision, including a Class I school district, the question of such disposition shall be placed on the ballot for the next primary or general election. All registered voters of such Class VI school district shall then vote on the question at such election. A simple majority of the votes cast shall resolve the issue.

(4) Whenever an application for approval of a final plat or replat is filed for territory which lies within the zoning jurisdiction of a city of the first or second class and does not lie within the boundaries of a Class IV or V school district, the affected school board of the city district or its representative and the affected school board or boards serving the territory subject to the final plat or replat or their representative shall meet within thirty days of such application and negotiate in good faith as to which district shall serve the platted or replatted territory and the effective date of any transfer based upon the criteria prescribed in subsection (2) of this section.

If no agreement has been reached prior to the approval of the final plat or replat, the territory shall transfer to the school district of the city of the first or second class upon the filing of the final plat unless an affected district petitions the district court within ten days of approval of the final plat or replat and obtains an order enjoining the transfer and requiring the affected

school boards to continue negotiation. The court shall issue the order upon a finding that the affected board or boards have not negotiated in good faith based on one or more of the criteria listed in subsection (2) of this section. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the platted or replatted territory shall become a part of the school district of the city of the first or second class.

(5) Notwithstanding any other provisions of this section, all negotiated agreements relative to boundaries or to real or personal property of school districts reached by the affected boards of education shall be valid and binding.

(2) Notwithstanding subsection (1) of this section or section 79-801-02, no annexation by a city or village encompassed within any Class III school district, which annexation occurs after April 26, 1983, but before August 15, 1984, shall operate to change any school district boundaries in the area annexed, nor shall any election prescribed by subsection (1) of this section be held after April 26, 1983, but before August 15, 1984. Nothing in this section shall prevent the boards of education of annexing and annexed school districts affected by such annexation by a majority vote of the members of such boards from entering into an agreement concerning any boundary changes and disposition of property. For annexations occurring on or after August 15, 1984, the provisions of this subsection shall be null and void and shall have no effect. Any changes in school district boundaries which would otherwise occur as a result of annexations occurring after April 26, 1983, but before August 15, 1984, shall be governed by the provisions of applicable law as such may exist after August 15, 1984.

Sec. 2. That original section 79-801, Revised Statutes Supplement, 1983, is repealed.