

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1146
(Representatives Rust, Sanford)

AN ACT to amend and reenact sections 15.1-01-01, 15.1-12-05, 15.1-12-09.1, 15.1-12-10, and 15.1-12-27 of the North Dakota Century Code, relating to the state board of public school education and school district annexation, reorganization, and dissolution proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-01-01. State board of public school education - Composition.

1. The state board of public school education consists of the superintendent of public instruction and:
 - a. An individual representing Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill Counties;
 - b. An individual representing Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh Counties;
 - c. An individual representing Dickey, Emmons, LaMoure, Logan, McIntosh, Ransom, Richland, and Sargent Counties;
 - d. An individual representing Burleigh, Eddy, Foster, Kidder, McLean, Sheridan, Stutsman, and Wells Counties;
 - e. An individual representing Burke, Divide, McKenzie, Mountrail, Ward, and Williams Counties; and
 - f. An individual representing Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark Counties.
2. All board members other than the superintendent of public instruction must be qualified electors and must reside in one of the counties they represent.
3. The governor shall appoint new board members from a list of three names submitted by a committee consisting of the president of the North Dakota education association, the president of the North Dakota council of educational leaders, and the president of the North Dakota school boards association. Two of the state board members must be members of the North Dakota school boards association.
4. Appointees serve for six-year terms, staggered so that the terms of two members expire on June thirtieth of each even-numbered year.
5. If a vacancy occurs, the governor shall appoint an individual to serve for the duration of the unexpired term.
- 4-6. ~~Board members are~~ Each member of the board is entitled to receive, from the biennial appropriation for the superintendent of public instruction, compensation at the rate in the amount of sixty-two dollars and fifty cents per day and reimbursement for expenses, from the biennial appropriation for the superintendent of public instruction, as provided by law for state officers, if they are ~~the member is attending board meetings or performing duties directed by~~

~~the board. No~~The compensation may be paid underprovided for in this section may not be paid to any member who receives compensation or a salary as a state employee or official a salary or other compensation as an employee or official of this state if the individual is serving on the board by virtue of the individual's state office or state employment.

- ~~5-7.~~ The superintendent of public instruction shall serve as the executive director and secretary of the board. The superintendent shall call meetings as necessary, carry out the policies of the board, and employ personnel necessary to perform the board's duties.
8. The board shall annually elect one member to serve as the chairman.

SECTION 2. AMENDMENT. Section 15.1-12-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-05. Annexation of property to school district - Hearing.

1. Upon receiving a petition for the annexation of property to a school district, the county superintendent shall schedule and give notice of a public hearing regarding the annexation.
2. The county superintendent shall publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school district's real property is situated, at least fourteen days before the date of the hearing. If no newspaper is published in the county, the county superintendent shall publish the notice in a newspaper in an adjoining county in this state.
3. Before the hearing, the county committee shall:
 - a. Determine the number of qualified electors residing on the property to be annexed;
 - b. Ensure that two-thirds of such qualified electors have signed the petition; and
 - c. Ensure that all other statutory requirements regarding the petition have been met.
4. At the hearing, the county committee shall accept testimony and documentary evidence regarding:
 - a. The value and amount of property held by each affected school district;
 - b. The amount of all outstanding bonded and other indebtedness of each affected district;
 - c. The levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in section 15.1-12-08;
 - d. The taxable valuation of each affected district and the taxable valuation under the proposed annexation;
 - e. The size, geographical features, and boundaries of each affected district;
 - f. The number of students enrolled in each affected district;
 - g. ~~The general population of each affected district;~~
 - h. Each school in the district, including its name, location, condition, the grade levels it offers, and the distance that students living in the petitioned area would have to travel to attend school;
 - i. h. The location and condition of roads, highways, and natural barriers in each affected district;
 - j. i. Conditions affecting the welfare of students residing on the property to be annexed;

- k.j. The boundaries of other governmental entities;
 - l.k. The educational needs of communities in each affected district;
 - m.l. Potential savings in school district transportation and administrative services;
 - n.m. The potential for a reduction in per student valuation disparity between the affected districts;
 - o.n. The potential to equalize or increase the educational opportunities for students in each affected district; and
 - p.o. All other relevant factors.
5. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall make specific findings of fact and approve or deny the annexation. If the annexation is approved, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding and the county committee's decision to the state board for final approval of the annexation.
 6.
 - a. Except as provided in this subsection, the state board shall conduct a hearing after publication of a notice in the manner required in subsection 2, accept and consider testimony and documentary evidence regarding the proposed annexation, make specific findings, and approve or deny the annexation.
 - b. If no opposition is presented to the county committee at the hearing and the county committee approves the annexation, the state board may review the record of the county committee and give final approval to the annexation without holding its own hearing.
 7. If the school districts involved in a proposed annexation include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the annexation petition.
 8. If the school districts involved in a proposed annexation are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the annexation petition. The county committees shall vote separately on whether to approve the annexation.
 9. If the state board denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months after the state board's denial. A petition involving any of the same property cited in the original petition may not be considered by the state board more than twice in a twelve-month period.
 10. Regardless of how many county committees consider the annexation, the decision may be appealed to the state board.
 11. Each annexation must receive final approval from the state board.
 12. The county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's decision to the state board for final approval or for consideration of an appeal.
 13. A decision of the state board with respect to an annexation petition may be appealed to the district court of the judicial district in which the property to be annexed is located.

SECTION 3. AMENDMENT. Section 15.1-12-09.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-09.1. Reorganization plan - Interim fund balance ~~General fund mill levy.~~

~~1. The reorganization plan must specify whether the balance in the interim fund of each district participating in the reorganization is to be wholly or partially allocated to the general fund of the newly reorganized district.~~

~~2. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be wholly allocated to the general fund of the newly reorganized district, the reorganization plan may also provide that the general fund mill levy applicable to property in those participating districts having a general fund mill levy that is lower than the proposed general fund mill levy for the reorganized district may be raised incrementally, over a period of not to exceed five years, to the level proposed for the reorganized district.~~

- ~~3. a. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be partially allocated to the general fund of the newly reorganized district, then each participating district shall divide the amount of its interim fund balance on the day preceding the effective date of the reorganization by the number of students in average daily membership in the district during the school year concluding on the day preceding the effective date of the reorganization.~~
- ~~b. The participating district having the lowest per student interim fund balance must contribute the total amount of its interim fund balance to the general fund of the newly reorganized district.~~
- ~~c. Each of the other participating districts shall multiply the lowest district's per student interim fund amount by the number of students in average daily membership in their respective districts during the school year concluding on the day preceding the effective date of the reorganization. Each of the other participating districts must contribute the lesser of the amount arrived at under this subdivision or the total amount in its interim fund to the general fund of the newly reorganized district.~~
- ~~d. If after complying with the requirements of subdivision c, a participating district has a balance available in its interim fund, the reorganization plan must allow that balance to be used by or on behalf of property owners residing within the boundaries of that participating district, as a proportionate credit against any property taxes owed by the property owners. The reorganization plan must determine the manner in which the proportionate credit must be used. The credit may be used either in its entirety on a single occasion or applied to several taxable years. The credit may not be used beyond the fifth taxable year.~~

SECTION 4. AMENDMENT. Section 15.1-12-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-10. School district reorganization - Contents of plan - Public hearing - Testimony and evidence.

1. The reorganization plan required by section 15.1-12-09 must:
- a. Include a map showing the boundaries of each participating district and of the proposed new district;
 - b. ~~Include the demographic characteristics of each participating district, including the population per age group;~~
 - e. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
 - ~~d.c.~~ Include projected student enrollments for the ensuing ten years;

- e.d. Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
 - f.e. Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
 - g.f. Address planned course offerings by the new district;
 - h.g. Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;
 - i.h. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
 - j.i. Address plans regarding student transportation;
 - k.j. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district;
 - l.k. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;
 - m.l. Include the amount of all bonded and other indebtedness incurred by each participating district;
 - n.m. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
 - o.n. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law;
 - p.o. Include the official name of the new district, which must include the phrase "school district" or "public school district" and which may include no more than two additional words; and
 - p. Include the number of the new district, as assigned by the superintendent of public instruction; and
 - q. Include any other information that the participating school districts wish to have considered by the county committee or the state board.
2. Upon receiving a reorganization plan, the county superintendent shall schedule and give notice of a public hearing regarding the plan. If the school districts involved in a reorganization plan include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the reorganization plan. If the school districts involved in a reorganization plan are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the reorganization plan.
 3. The county superintendent shall publish the notice in the official newspaper of the county at least fourteen days before the date of the hearing.
 4. If no newspaper is published in the county, the county superintendent shall publish the notice in the official newspaper of an adjoining county in this state.

5. Before the hearing, the county committee shall review the reorganization plan and ensure that all statutory requirements have been met.
6. At the hearing, the county committee shall accept testimony and documentary evidence regarding the reorganization plan.
7. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall approve or deny the reorganization plan.
8. If the plan is approved by at least one county committee, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board for final approval. The state board shall publish notice of its meeting at which it will consider the reorganization plan in the official newspaper of the county at least fourteen days before the date of the meeting. If no newspaper is published in the county, the state board shall publish the notice in the official newspaper of an adjoining county in this state.
9. To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within each school district.

SECTION 5. AMENDMENT. Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district.
2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the high school districts to which the dissolved district is attached;
 - d. The taxable valuation of the dissolving district and adjacent high school districts and the taxable valuation of adjacent high school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent high school districts;
 - f. The number of students enrolled in the dissolving district and in adjacent high school districts;
 - g. The general population of the dissolving district and adjacent high school districts;

- h. Each school in the dissolving district and in adjacent high school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - i.h. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent high school districts;
 - j.i. Conditions affecting the welfare of students in the dissolving district and in adjacent high school districts;
 - k.j. The boundaries of other governmental entities;
 - l.k. The educational needs of communities in the dissolving district and in adjacent high school districts;
 - m.l. Potential savings in school district transportation and administrative services;
 - n.m. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
 - o.n. The potential for a reduction in per student valuation disparities between the high school districts to which the dissolved district is attached;
 - p.o. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent high school districts; and
 - q.p. All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property attached to one or more contiguous, operating high school districts.
 5. Any property ordered attached under this section must have at least one minor residing within its boundaries.
 6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
 7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.
 8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent high school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.
 9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.

10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1146.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State