State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

577X0017

SENATE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to revise the procedure to initiate a school district boundary change.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 13-6-18.1 be amended to read as follows:

13-6-18.1. If a plan of reorganization ~~has been~~ is approved pursuant to § 13-6-18, a boundary change pursuant to § 13-6-84.2 ~~or 13-6-85~~ may be allowed by a school board only if:

(1) The plan has been rejected by the voters;

(2) The school boards of each district which voted and approved the reorganization plan concur by majority vote and the minor boundary change is recognized in the plan; or

(3) The plan is operative pursuant to § 13-6-61.

Section 2. That § 13-6-84 be amended to read as follows:

13-6-84. The school board of a school district may ~~approve or disapprove proposed~~ propose to change the boundary ~~changes~~ of the school district and exchange land with another school district under ~~conditions~~ criteria described in §§ 13-6-84.1 to 13-6-84.3, inclusive, ~~13-6-85,~~ and 13-6-86. However, a school board may not approve a boundary change and a land exchange of the school district if the appraisal of the land to be detached has a fair market value that is ten

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

1 percent more than the fair market value of the land that is proposed to be annexed to the school
2 district. Fair market value is defined in § 10-6-1.3.
3 Section 3. That § 13-6-84.1 be amended to read as follows:
4 13-6-84.1. In ~~all~~ each proposed ~~changes~~ change in a school ~~district boundaries, the following~~
5 ~~conditions shall prevail:~~
6 ~~(1) The~~ district's boundary or land exchange, the boundary of the area proposed to be
7 ~~transferred shall be coterminous at some point~~ detached, annexed, or exchanged must
8 have a common boundary with the common boundary of the two involved school
9 districts. Land owned by the federal, state, or local governments and unoccupied land
10 may be included in the ~~request;~~
11 ~~(2) Children must reside within the boundary of the area to be transferred, unless it is an~~
12 ~~area change initiated by a school board as provided in § 13-6-84.2~~ proposal.
13 Section 4. That § 13-6-84.2 be amended to read as follows:
14 13-6-84.2. ~~A boundary change between school districts may be initiated by a resolution of~~
15 ~~intent to make a boundary change by the school board of a district. The initiating board shall,~~
16 ~~within five days of passage of the resolution of intent, forward a copy of the resolution to all~~
17 ~~affected districts. The school boards of the affected districts shall act upon the resolution of~~
18 ~~intent during their next meeting. Within thirty days of the passage of the resolution of intent by~~
19 ~~each district a public hearing shall be held by the boards of each district. Within thirty days of~~
20 ~~the public hearing, and if no petition for election has been filed pursuant to § 13-6-84.3, the~~
21 ~~school boards of each district shall meet and take final action on the resolution of intent. If the~~
22 ~~resolutions of all districts favor a boundary change, the resolutions shall be forwarded to the~~
23 ~~county commissioners having jurisdiction over the school districts affected. The county~~
24 ~~commissioners shall act pursuant to § 13-6-87.~~ Nothing in this Act compels a school board to

1 act if the school board is unwilling to exchange any land within its boundary. The exchange of
2 land between each school district may only be made if each school board is willing to exchange
3 the land. If a school district is willing to detach, annex, or exchange land, the involved school
4 district shall adopt a resolution of intent to exchange land with the other school district. The
5 resolution of intent shall contain the following:
6 (1) The name of each school district involved and a legal description of the land in each
7 school district proposed to be exchanged through the detachment and annexation of
8 land by each school district;
9 (2) A map of the area proposed to be detached and annexed by each involved school
10 district;
11 (3) A statement certified by the county auditor setting forth the amount of the assessed
12 valuation of the area to be detached and annexed, the total assessed valuation of the
13 school district from which the area is proposed to be detached and the school district
14 to which the area is proposed to be annexed, and the amount of any bonded
15 indebtedness or judgments against each school district; and
16 (4) A statement that the school district will request an appraisal to be completed by a
17 certified appraiser that shows the fair market value of the land proposed to be
18 detached and annexed by each of the involved school districts. Each of the involved
19 school districts shall approve the certified appraiser completing the appraisal, and
20 shall pay one-half of the cost of the appraisal. If a school district does not agree with
21 an appraisal, the school district may, within thirty days of the receipt of the appraisal
22 and at its own expense, order another appraisal from a different certified appraiser.
23 The school board of each involved school district shall, within five days of the passage of
24 the resolution of intent, forward a copy of the resolution to the other school district and to the

1 Department of Education. The school board of each involved school district shall acknowledge
2 receipt of the resolution of intent at its next school board meeting, and representatives from both
3 of the involved school districts shall meet and mutually agree on a certified appraiser to
4 complete the appraisal.

5 A school board may object to the appraisal within forty-five days of acknowledging the
6 receipt of the appraisal. Unless a school board objects, the school board of each involved school
7 district shall, within sixty days of acknowledging the receipt of the appraisal, schedule a public
8 hearing to consider the proposed land exchange. Following the public hearing, the school board
9 of each involved school district shall either approve or reject the land exchange.
10 Notwithstanding any other provision in law, a decision by a school board to reject the land
11 exchange shall not create any cause of legal action against the school district or school board,
12 or constitute grounds for an appeal pursuant to § 13-46-1. If the action of each of the involved
13 school districts approves a land exchange and no petition for an election is filed pursuant to
14 § 13-6-84.3, the resolutions approving the land exchange shall be forwarded to the county
15 commissioners having jurisdiction over the involved school districts. The county commissioners
16 shall act pursuant to § 13-6-87.

17 Section 5. That § 13-6-85 be repealed.

18 ~~13-6-85. A boundary change, affecting not more than two percent of the assessed valuation~~
19 ~~and not more than two percent of the tax-exempt acreage or other tax-exempt property to be~~
20 ~~determined at the discretion of the school district from which the area is to be taken, may be~~
21 ~~made upon an application for a boundary change to the school board of the school district from~~
22 ~~which the area is to be taken and to the school board of the school district to which the area is~~
23 ~~to be annexed, in the form of a petition, including the final plan of detachment and annexation~~
24 ~~signed by all of the owners of land, excluding land owned by the state or any other political~~

1 ~~subdivision in the area to be transferred by the boundary change. Copies of the petitions shall~~
2 ~~also be delivered by the petitioners to the board of county commissioners having jurisdiction~~
3 ~~over the school districts affected. Any petitioner who is aggrieved by a decision of the school~~
4 ~~board under this section may appeal that decision.~~
5 ~~An appeal from the decision of the school board may be made to the circuit court in the time~~
6 ~~and manner specified by § 13-46-1 or to the secretary of the Department of Education or the~~
7 ~~secretary's representative within thirty days from the date of the decision of the school board by~~
8 ~~filing a notice with the secretary of the school board and mailing a copy of the notice to the~~
9 ~~secretary of the Department of Education. An appeal to the secretary of the Department of~~
10 ~~Education may be heard by the secretary or the secretary's representative. The secretary of the~~
11 ~~Department of Education shall thereafter set a time and place for the hearing and give at least~~
12 ~~ten days' written notice of the hearing to the parties involved in the appeal, including all affected~~
13 ~~school districts. An appeal to the secretary is not a contested case subject to chapter 1-26. An~~
14 ~~appeal from the decision of the secretary may be made pursuant to § 13-6-89. On appeal from~~
15 ~~a decision of the secretary, the appeal shall be heard and determined in the same manner as a~~
16 ~~direct appeal from the school board decision pursuant to § 13-6-89 and chapter 13-46 without~~
17 ~~any presumption of the correctness of the decision of the secretary nor may the provisions of~~
18 ~~§ 1-26-36 be applied to the decision of the secretary. Nothing in this section affects the right of~~
19 ~~an aggrieved party to appeal from the decision of the school board to the circuit court.~~
20 Section 6. That § 13-6-85.1 be repealed.
21 ~~13-6-85.1. The description of the area proposed for detachment and annexation in a petition~~
22 ~~for a minor boundary change shall include the following information based on the final plan for~~
23 ~~detachment and annexation:~~
24 ~~(1) The potential value of the land as if the land was fully developed as determined by~~

1 ~~consideration of the current zoning, nearest municipality proposed zoning for the~~
2 ~~next ten years, nearest municipality comprehensive plan;~~
3 ~~(2) Whether the potential fully developed valuation of the land will affect more than two~~
4 ~~percent of assessed valuation allowed for a minor boundary change; and~~
5 ~~(3) The ownership interests in the land.~~
6 ~~The map of the area proposed for detachment and annexation shall include all land that is~~
7 ~~adjacent to the proposed boundary change that is owned by the petitioners that is contiguous to~~
8 ~~the land included in the proposed boundary change.~~
9 Section 7. That § 13-6-86 be amended to read as follows:
10 13-6-86. ~~The petitions and resolutions~~ A resolution for a proposed boundary change ~~shall~~
11 ~~contain, but not be limited to,~~ includes the following information based on the final plan for
12 detachment and annexation:
13 (1) The names of the school districts involved and ~~a correct~~ the legal description of the
14 area proposed for detachment and annexation;
15 (2) A map of the area proposed for detachment and annexation, including a portion or
16 all of the district from which ~~such~~ the area is to be detached and the district to which
17 ~~such~~ the area is to be annexed;
18 (3) A statement certified by the county auditor setting forth the amount of the assessed
19 valuation of the area to be ~~transferred~~ detached, the amount of the assessed valuation
20 of the area to be annexed, the total assessed valuation of the school district from
21 which the area is proposed to be ~~removed~~ detached, and the amount of any bonded
22 indebtedness or judgments against the school district;
23 (4) An appraisal completed by a certified appraiser that shows the fair market value of
24 the land proposed to be detached and annexed. The appraisal shall be completed by

1 a certified appraiser approved by the school board of each involved school district,
2 and each involved school district shall pay one-half of the cost of the appraisal. If an
3 involved school district does not agree with the appraisal, the school district may,
4 within thirty days of receipt of the appraisal and at its own expense, request another
5 appraisal from a different certified appraiser. The appraisal shall include the potential
6 fair market value of the land to be detached and annexed as if the land was fully
7 developed as determined by consideration of the current zoning, the nearest
8 municipality's proposed zoning for the next ten years, and the nearest municipality's
9 comprehensive plan; and
10 (5) The ownership interests in the land.
11 Section 8. That § 13-6-86.1 be repealed.
12 ~~13-6-86.1. The school boards, within sixty days of receipt of the petition, including the final~~
13 ~~plan for detachment and annexation, shall by resolution, approve or disapprove the request of~~
14 ~~the petitioners and notify the petitioners in writing whether or not the petition is approved. If~~
15 ~~any change is made to the final plan for detachment and annexation included in the petition after~~
16 ~~the petition is submitted pursuant to § 13-6-85, the sixty-day time limit is suspended and will~~
17 ~~begin again on the submission of a new or revised plan or petition. If the request of the~~
18 ~~petitioners is approved, a copy of the petition and the resolution of approval shall be delivered~~
19 ~~by the school board to the board of county commissioners having jurisdiction over the school~~
20 ~~district losing territory and to the board of county commissioners having jurisdiction over the~~
21 ~~school district to which the area is to be annexed.~~
22 Section 9. That § 13-6-89 be repealed.
23 ~~13-6-89. Any party feeling aggrieved by any decision of the board of county commissioners,~~
24 ~~school boards, the secretary of the Department of Education, or the South Dakota Board of~~

1 ~~Education involving the preparation and approval of a proposed plan for reorganization of~~
2 ~~school districts or boundary changes or involving any other decision which such boards or~~
3 ~~secretary of the Department of Education are obligated or empowered to make under the~~
4 ~~provisions of this chapter shall be entitled to appeal such decision within ninety days to the~~
5 ~~circuit court and from there to the Supreme Court under the same limitations and procedures~~
6 ~~provided by law for appeal for all school board decisions and the board of county~~
7 ~~commissioners, school boards, the secretary of the Department of Education, or the South~~
8 ~~Dakota Board of Education may also appeal to the Supreme Court from a judgment of the~~
9 ~~circuit court reversing its decision, either in whole or in part.~~