

SENATE BILL NO. 260

INTRODUCED BY G. HERTZ, C. NEUMANN, A. GRIFFITH, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ALTERATION OF SERVICE DISTRICT BOUNDARIES FOR CERTAIN PURPOSES; PROVIDING THAT THE PURPOSES INCLUDE AN INABILITY TO ACCESS PUBLIC SERVICES OR IMPROVEMENT OF PUBLIC SAFETY SERVICES; PROVIDING FOR PETITION, PUBLIC HEARING, AND ELECTION PROCEDURES FOR ALTERING SERVICE DISTRICT BOUNDARIES; PROVIDING FOR A PROCESSING FEE PAYABLE TO THE COUNTY FOR CERTIFYING THE PETITION; PROVIDING DEFINITIONS; AMENDING SECTION 20-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 8], the following definitions apply:

(1) "Inability to access public services" means the inability of a real property owner to reach public services in the county in which the owner's property is located due to:

- (a) a physical or geographical barrier;
- (b) a lack of county or county-maintained roads; or
- (c) a lack of legal access on existing roads that would require the owner to travel through an adjacent county and then back into the county in which the owner's property is located.

(2) "Public safety services" means law enforcement, firefighting, hospital, ambulance, or emergency medical services offered to the general public.

(3) "Public services" means any of the following that are offered to the general public:

- (a) county services and facilities;
- (b) educational services and facilities; or
- (c) hospital or emergency medical services and facilities.

(4) (a) "Qualified petitioner" means an owner of real property in a service district:

(i) whose property is more quickly accessible to public safety services or public services headquartered in the county seat or closest city, town, resort community, resort area, or resort area district of an adjoining county than to public safety services or public services headquartered in the county seat or closest city, town, resort community, resort area, or resort area district of the county in which the owner's property is located, or

(ii) from whose property the owner has an inability to access public services from the county seat or closest city, town, resort community, resort area, or resort area district of the county in which the owner's property is located.

(b) For the purposes of [sections 1 through 8], a qualified petitioner includes a real property owner that is a corporation, limited liability company, partnership, or trust regardless of the state of principal domicile.

(5) "Service district" means a hospital district created under Title 7, chapter 34, part 21, or a school district created under Title 20, chapter 6.

**NEW SECTION. Section 2. Alteration of service district boundaries for purposes of public safety or inaccessibility -- processing fee.** (1) A qualified petitioner may petition for the alteration of service district boundaries to improve public safety services or due to an inability to access public services as provided in [sections 1 through 8].

(2) A petition under [sections 1 through 8] must provide for the transfer of property to an existing service district or for the creation of a new service district.

(3) A petition under [sections 1 through 8] must follow the procedures provided for in 7-2-2801 and 7-2-2802 and [sections 1 through 8].

(4) If the petition is sufficient and satisfies the conditions of subsection (3), the clerk of the county that is in receipt of the petition shall notify the petitioner that the petition will be certified after the clerk receives a processing fee of \$500. The 30-day timeframe to certify that a petition is sufficient as provided in 7-2-2802(3) is calculated from the time that the clerk is in receipt of the processing fee.

**NEW SECTION. Section 3. Public hearing on alteration of service district boundaries.** (1) Within 30 days after certification that a petition to change a service district boundary is sufficient as provided in

[section 2], the board of the service district in the adjoining county into which boundary changes are proposed shall, after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing in the area proposed to be transferred from one service district to another for the purposes of educating the public and soliciting public comment on the petition to change the service district boundary.

(2) If there is no existing service district in the county into which the property is proposed to be moved, the petition must also call for the creation of a new service district in the county. The county or the closest city, town, resort community, resort area, or resort area district in the adjacent county shall, after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing within 30 days after certification of the petition in the area proposed to be transferred from one service district to another for the purposes of educating the public and soliciting public comment on the petition to change the service district boundary and to create a new service district within that county.

**NEW SECTION. Section 4. Order for election -- registered electors entitled to vote.** (1) After the public hearing held under [section 3], the board of county commissioners in the county in which the service district is located shall order and give notice of an election to be held at the next election most immediately following the public hearing.

(2) Only registered electors within the area proposed to be transferred may vote in the election.

(3) (a) The notice must require that the ballot contain the legal description of the proposed boundary change, together with any descriptive name or names for the property that may be in common use.

(b) In the case of the creation of a new service district, the notice must require that the ballot contain the legal description of the proposed new service district.

(4) The election must be conducted in conformance with Title 13, chapter 1, part 4.

**NEW SECTION. Section 5. Effect of election -- resolution by board of county commissioners.**

(1) After the canvas of votes cast in an election held in accordance with [section 4], if more than 50% of the votes cast approve the proposed service district boundary change or more than 50% of the votes cast approve the creation of a new service district, then the board of county commissioners shall, by resolution, declare the boundary to be changed or the new service district created as of January 1 of the year immediately following

1 the election.

2 (2) The resolution must include the legal description of the new service district boundary.

3

4 NEW SECTION. Section 6. Notification of boundary change. (1) Upon implementation of a service  
5 district boundary change under [sections 1 through 8], the county clerks and recorders in the adjoining counties  
6 where the boundary was changed shall notify the department of administration, the department of revenue, and  
7 the secretary of state of the boundary change.

8 (2) The department of revenue shall certify to each adjoining county the total taxable value within  
9 each county for the year following implementation of the service district boundary change to account for the  
10 transfer of the property.

11

12 NEW SECTION. Section 7. Effect on school districts. School district boundaries impacted by a  
13 change of service district boundary under [sections 1 through 8] must be adjusted to ensure the affected  
14 property is relocated to the school district that is accessible to the affected property.

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16 NEW SECTION. Section 8. Effect on hospital districts. Hospital district boundaries impacted by a  
17 change of service district boundary under [sections 1 through 8] must be adjusted to ensure the affected  
18 property is relocated to the hospital district that is accessible to the affected property or to the new hospital  
19 district created by the petition.

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21 NEW SECTION. Section 9. Alteration of hospital district boundaries for purposes of public  
22 **safety or inaccessibility.** Hospital district boundaries may be altered to improve public safety services or due  
23 to an inability to access public services as provided in [sections 1 through 8].

24

25 **Section 10.** Section 20-6-105, MCA, is amended to read:

26 **"20-6-105. Transfer of territory from one district to another -- hearing on effects of proposed**  
27 **transfer -- burden of proof -- standard of proof -- appeal to district court.** (1) (a) Except as provided in  
28 [sections 1 through 8], 20-6-214, 20-6-215, 20-6-308, 20-6-322, and subsections (1)(b) and (1)(c) of this

section, a petition to transfer territory from one school district to another 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 the district to which it is to be attached, includes taxable property, and has school-age children living 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.

(3) The petition for a transfer of territory must be delivered to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the district to which the territory is to be transferred;

(b) state the reasons why the transfer is requested; and

(c) state the number of school-age children residing in the territory.

(4) If both the trustees of the receiving and transferring school districts have approved the proposed territory transfer in writing, the county superintendent shall grant the transfer.

(5) For any petition that meets the criteria specified in subsection (1) and contains the information required by subsection (3) but that has not been approved in writing by the board of trustees of the school district that would transfer the territory, the county superintendent shall:

(a) not more than 40 days after receipt of the petition, set a place, date, and time for a hearing to

1 consider the petition; and

2 (b) give notice of the place, date, and time of the hearing. The notice must be posted in the  
3 districts affected by the petition for the transfer of territory in the manner prescribed in this title for notices for  
4 school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered  
5 to the board of trustees of the school district from which the territory is to be transferred.

6 (6) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer,  
7 or representative of the receiving or transferring district must, upon request, be heard. At the hearing, the  
8 petitioners have the initial burden of presenting evidence on the proposed transfer's effect on:

9 (a) the educational opportunity for the students in the receiving and transferring districts, including  
10 but not limited to:

- 11 (i) class size;
- 12 (ii) ability to maintain demographic diversity;
- 13 (iii) local control;
- 14 (iv) parental involvement; and
- 15 (v) the capability of the receiving district to provide educational services;

16 (b) student transportation, including but not limited to:

- 17 (i) safety;
- 18 (ii) cost; and
- 19 (iii) travel time of students;

20 (c) the economic viability of the proposed new districts, including but not limited to:

21 (i) the existence of a significant burden on the taxpayers of the district from which the territory will  
22 be transferred;

23 (ii) the significance of any loss in state funding for the students in both the receiving and  
24 transferring districts;

25 (iii) the viability of the future bonding capacity of the receiving and transferring districts, including  
26 but not limited to the ability of the receiving district and the transferring district to meet minimum bonding  
27 requirements;

28 (iv) the ability of the receiving district and the transferring district to maintain sufficient reserves;

1 and

2 (v) the cumulative effect of other transfers of territory out of the district in the previous 8 years on  
3 the taxable value of the district from which the territory is to be transferred. In cases where the cumulative effect  
4 of other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the  
5 district's taxable value, the following additional factors must be considered and weighed in the decision:

6 (A) the district's rate of passage of discretionary levies placed before the voters over the previous 8  
7 years;

8 (B) the district's reduction or elimination of instructional staff or programs over the previous 8  
9 years; and

10 (C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if  
11 the transfer is granted.

12 (7) After receiving evidence from both the proponents and opponents of the proposed territory  
13 transfer on the effects described in subsection (6), the county superintendent shall, within 30 days after the  
14 hearing, issue findings of fact, conclusions of law, and an order.

15 (8) If, based on a preponderance of the evidence, the county superintendent determines that the  
16 evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the  
17 best and collective interest of students in the receiving and transferring districts and does not negatively impact  
18 the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the  
19 county superintendent determines that, based on a preponderance of the evidence presented at the hearing, a  
20 transfer of the territory is not in the best and collective interest of students in the receiving and transferring  
21 districts and will negatively impact the ability of the districts to serve those students, the county superintendent  
22 shall deny the territory transfer.

23 (9) The decision of the county superintendent is final 30 days after the date of the decision unless  
24 it is appealed to the district court by a resident, taxpayer, or representative of either district affected by the  
25 petitioned territory transfer. The county superintendent's decision must be upheld unless the court finds that the  
26 county superintendent's decision constituted an abuse of discretion under this section.

27 (10) Whenever a petition to transfer territory from one district to another district creates a joint  
28 district or affects the boundary of an existing joint district, the petition to transfer territory must be delivered to

1 the county superintendent of the county in which the territory proposed to be transferred is located. The county  
2 superintendent shall notify any other county superintendents of counties with districts affected by the petition,  
3 and the duties prescribed in this section for the county superintendent must be performed jointly. If the number  
4 of county superintendents involved is an even number, the county superintendents shall jointly appoint an  
5 additional county superintendent from an unaffected county to join them in conducting the hearing required in  
6 subsection (6) and in issuing the decision required in subsection (8). The decision issued under subsection (8)  
7 must be made by a majority of the county superintendents.

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

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13 **NEW SECTION. Section 11. Codification instruction.** (1) [Sections 1 through 8] are intended to be  
14 codified as an integral part of Title 7, chapter 2, and the provisions of Title 7, chapter 2, apply to [sections 1  
15 through 8].

16 (2) [Section 9] is intended to be codified as an integral part of Title 7, chapter 34, part 21, and the  
17 provisions of Title 7, chapter 34, part 21, apply to [section 9].

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19 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

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