

HOUSE BILL NO. 846

INTRODUCED BY K. WALSH, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAXATION FOR CERTAIN LOCAL GOVERNMENT SUBDIVISIONS; PROVIDING FOR RECONCILIATION PAYMENTS BETWEEN CERTAIN SCHOOL DISTRICTS WHEN ISOLATED PUPILS ARE INVOLVED; ESTABLISHING A PROCESS FOR A SCHOOL DISTRICT TO SEEK A RECONCILIATION PAYMENT BY PETITIONING THE COUNTY SUPERINTENDENT AND PAYING A PROCESSING FEE; PROVIDING THAT THE TAXABLE VALUE OF TERRITORY TRANSFERRED BETWEEN SCHOOL DISTRICTS IS SPLIT BETWEEN THE DISTRICTS FOR A PERIOD OF 3 YEARS; PROVIDING FOR PAYMENTS BETWEEN DISTRICTS FOLLOWING A TERRITORY TRANSFER IF A RECONCILIATION PAYMENT WAS MADE PREVIOUSLY; PROVIDING DEFINITIONS; AMENDING SECTION 20-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. For the purposes of [sections 1 through 4] and 20-6-105, the following definitions apply:

(1) "Advisory capacity" has the same meaning as provided in 2-15-102.

(2) (a) "District operational levies" means property tax levies imposed on the property of a school district in support of a school district's budgeted operations. The term includes levies for all school district budgeted funds except the debt service fund.

(b) The term does not include countywide school levies.

(3) "Isolated pupil" means a pupil who is enrolled and admitted in a nonresident district contiguous to the pupil's resident school district under conditions specified in 20-5-321 and who is unable to access onsite services of a resident school district.

(4) "Reconciliation payment" means payment provided for in [section 2] from a resident school district to reimburse a school district of attendance for educating an isolated pupil of the resident school district.

(5) "Resident school district" means the school district where an isolated pupil maintains legal residence as defined in 1-1-215.

(6) "School district" means a school district created under Title 20, chapter 6.

(7) "School district of attendance" means the school district where the isolated pupil is enrolled, admitted, and receiving onsite instruction.

(8) "Unable to access onsite services of a resident school district" means a case in which a pupil resides in a location in which, because of geographic conditions between the pupil's home and the school that the pupil would attend within the resident school district, it is impractical to access onsite programs in the resident school district, based on a travel time of more than 60 minutes under normal weather conditions over a publicly owned and maintained road using the shortest passable route while complying with all applicable speed limits to the school the pupil would attend in the resident school district.

NEW SECTION. Section 2. Qualification for reconciliation payment -- petition to qualify. (1) A school district that has enrolled and admitted an isolated pupil is qualified for a reconciliation payment as provided in this section when the isolated pupil is a resident of a contiguous school district that has a taxable value of at least \$100 million and a taxable value per-ANB that is greater than 1.5 times the taxable value per-ANB in the school district of attendance.

(2) On payment of a processing fee of \$100 to the county superintendent of the county in which the resident school district of an isolated pupil is located, a school district that meets the requirements of subsection (1) may annually petition to qualify for a reconciliation payment calculated pursuant to [section 3]. To qualify for a reconciliation payment in the subsequent fiscal year, the school district shall file a petition with the county superintendent no later than June 1. The petition must include supporting evidence for the qualification of the school district of attendance for a reconciliation payment, including the number of full-time equivalent isolated pupils who were enrolled and admitted to the school district of attendance and receiving onsite instruction in the current school year.

(3) On receipt of a petition for a reconciliation payment, the county superintendent shall undertake a reasonable inquiry to assess the validity of the petition and eligibility for the reconciliation payment. The county superintendent shall exercise their best judgment and make a determination based on available and

1 credible evidence, documentation, and applicable laws and policies. The county superintendent shall afford
2 deference to the petitioner's assertions, ensuring that the evaluation process remains fair, transparent, and
3 consistent with established criteria. The county superintendent may utilize resources and expertise from the
4 office of public instruction, the department of revenue, and the department of transportation to verify the
5 credibility of the evidence presented and to better ascertain the facts surrounding the petition.

6 (4) The county superintendent shall complete the inquiry and communicate the findings and
7 determination, including a designation of the number of full-time equivalent isolated pupils enrolled in the school
8 district of attendance, to the petitioner and the resident school district within 30 calendar days from the date of
9 receipt of the petition. If further information or clarification is required to make an informed determination, the
10 county superintendent may request additional documentation or engage in dialogue with the petitioner within
11 this timeframe.

12 (5) An affected school district that disagrees with the county superintendent's determination may
13 appeal to the district court by filing a verified petition with the court clerk and serving a copy of the petition on
14 the county superintendent. The petition must clearly outline the objections of the school district to the basis of
15 the county superintendent's determination and the objective criteria set forth in [sections 1 through 4]. Filing and
16 serving the petition stays the county superintendent's decision until the court reaches a final determination on
17 the matter. The court shall schedule a hearing at the earliest possible convenience. The court shall review the
18 record and determine whether the county superintendent's decision constituted an abuse of discretion. The
19 proceedings must be summary and informal, and the court's decision must be considered final.

20
21 **NEW SECTION. Section 3. Proportional reconciliation of taxable valuation -- reimbursement for**
22 **isolated pupils.** (1) The resident school district shall impose a levy and make a reconciliation payment to the
23 school district of attendance as calculated in this section when a petition under [section 2] has been granted to
24 a school district of attendance by the applicable county superintendent.

25 (2) Following approval of the petition and not later than the first Tuesday in September, the school
26 district of attendance shall notify the resident school district of the mills budgeted to be imposed by the school
27 district of attendance for district operational levies pursuant to the final budget adopted by the school district of
28 attendance in compliance with 20-9-131.

(3) The resident school district shall calculate and impose levies on all of its taxable value sufficient to generate the amount of the reconciliation payment. The reconciliation payment must be incorporated into the tuition budget of the district of residence. The amount of the reconciliation payment must be calculated by:

(a) multiplying the number of full-time equivalent isolated pupils of the resident school district in the prior year as approved by the county superintendent pursuant to [section 2(4)] by the mill value per-ANB determined pursuant to subsection (4); and

(b) multiplying the result of subsection (3)(a) by the number of mills reported by the school district of attendance under subsection (2).

(4) The mill value per-ANB for the resident school district under subsection (3)(a) must be calculated by the office of public instruction and reported by May 1 with the information required in 20-9-369(1)(a) to the resident school district and to the school district of attendance based on the certified taxable value of the resident school district for the prior school fiscal year divided by the resident school district's budgeted ANB in the prior school fiscal year.

(5) Revenue generated from the reconciliation payment levy imposed on the resident school district pursuant to subsection (4) must be deposited in the tuition fund of the resident school district and used solely for reconciliation payments to the school district of attendance.

(6) By December 31, the resident school district shall pay at least one-half of the reconciliation payment provided for in this section to the school district of attendance. The remaining obligation must be paid by June 15 of the same fiscal year.

(7) On receipt of the reconciliation payment, a school district of attendance shall deposit the payment in the school district's flexibility fund or any other budgeted funds in the discretion of the trustees.

NEW SECTION. Section 4. Advisory council. (1) A school district with an enrollment of isolated pupils comprising 5% or more of its budgeted ANB shall establish an advisory council dedicated to fostering open dialogue and collaboration on matters that impact isolated pupils and other nonresident pupils from the areas in which isolated pupils reside. The council shall serve in an advisory capacity as a vital forum for listening to and voicing the concerns and insights of parents, guardians, and community members regarding the educational experiences of isolated pupils.

(2) The board of trustees of the school district of attendance shall appoint members to the advisory council following a public notice process that invites community participation and expressions of interest. The size of the council, the terms of service, and specific responsibilities must be outlined by district policy. A majority of the council's members must be parents or legal guardians of isolated pupils. The board may appoint other stakeholders at its discretion.

(3) The agenda for regular meetings of the board may include, at the council's request, a dedicated item for a report from the advisory council.

Section 5. 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, and 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)(a)~~ (i)(a) the petition is signed by 60% of the registered electors qualified to vote at general elections in the territory proposed for transfer;

~~(ii)(b)~~ (ii)(b) 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)(c)~~ (iii)(c) 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)(d)~~ (iv)(d) 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~~ When a petition to transfer territory has been filed, an additional petition to transfer that territory may not be filed for 4 years 1 full fiscal year 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
- 3 of the 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
- 7 proposed 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
- 10 district 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
- 14 districts affected by the petition for the transfer of territory in the manner prescribed in this title for notices for
- 15 school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered
- 16 to the 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,
- 18 or representative of the receiving or transferring district must, ~~upon~~on request, be heard. At the hearing, the
- 19 petitioners 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
- 21 but 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;

- 1 (ii) cost; and
- 2 (iii) travel time of students; and
- 3 (iv) whether there are isolated pupils in the territory proposed for transfer; and
- 4 (c) the economic viability of the proposed new districts, including but not limited to:
- 5 (i) the existence of a significant burden on the taxpayers of the district from which the territory will
- 6 be transferred if the transfer is approved and on the taxpayers of the school district to which the territory is to be
- 7 transferred if the transfer is rejected;
- 8 (ii) the significance of any loss in state funding for the students in both the receiving and
- 9 transferring districts;
- 10 (iii) the viability of the future bonding capacity of the receiving and transferring districts, including
- 11 but not limited to the ability of the receiving district and the transferring district to meet minimum bonding
- 12 requirements;
- 13 (iv) the ability of the receiving district and the transferring district to maintain sufficient reserves;
- 14 and
- 15 (v) the cumulative effect of other transfers of territory out of the district in the previous 8 years on
- 16 the taxable value of the district from which the territory is to be transferred. In cases where-in which the
- 17 cumulative effect of other transfers of territory out of the district in the previous 8 years is equal to or greater
- 18 than 25% of the district's taxable value, the following additional factors must be considered and weighed in the
- 19 decision:
- 20 (A) the district's rate of passage of discretionary levies placed before the voters over the previous 8
- 21 years;
- 22 (B) the district's reduction or elimination of instructional staff or programs over the previous 8
- 23 years; and
- 24 (C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if
- 25 the transfer is granted.
- 26 (7) After receiving evidence from both the proponents and opponents of the proposed territory
- 27 transfer on the effects described in subsection (6), the county superintendent shall, within 30 days after the
- 28 hearing, issue findings of fact, conclusions of law, and an order.

1 (8) If, based on a preponderance of the evidence, the county superintendent determines that the
2 evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the
3 best and collective interest of students in the receiving and transferring districts and does not negatively impact
4 the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the
5 county superintendent determines that, based on a preponderance of the evidence presented at the hearing, a
6 transfer of the territory is not in the best and collective interest of students in the receiving and transferring
7 districts and will negatively impact the ability of the districts to serve those students, the county superintendent
8 shall deny the territory transfer.

9 (9) The decision of the county superintendent is final 30 days after the date of the decision unless
10 it is appealed to the district court by a resident, taxpayer, or representative of either district affected by the
11 petitioned territory transfer. The county superintendent's decision must be upheld unless the court finds that the
12 county superintendent's decision constituted an abuse of discretion under this section. The county
13 superintendent shall notify the department of revenue of the approval of a petition to transfer territory from one
14 school district to another.

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

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

28 (12) If a petition to transfer territory is granted under this section, for the 3 years immediately

1 following the transfer:

2 (a) the taxable value of territory transferred must be divided equally between the school district
3 from which the territory is transferred and the school district to which the property is transferred;

4 (b) when certifying taxable values pursuant to 15-10-202, the department of revenue shall include
5 half of the certified value of the transferred territory in each school district's certified taxable value;

6 (c) each school district shall calculate the mills required for its district operational levies, as defined
7 in [section 1], based on the certified taxable value provided under subsection (12)(b) of this section; and

8 (d) when levying taxes for district operational levies pursuant to 20-9-142, the county
9 commissioners shall fix and levy one-half of the number of mills for each district's operational levies on the full
10 taxable value of all property within the transferred territory.

11 (13) (a) When a petition to transfer territory is granted for a school district that has paid a
12 reconciliation payment to another school district under [section 3]:

13 (i) the school district to which the territory is transferred shall budget and impose a levy for 3
14 consecutive years following the transfer to generate revenue equal to the most recent reconciliation payment it
15 received from the district from which the territory is transferred; and

16 (ii) the school district imposing the levy shall deposit the revenue in its tuition fund and pay the
17 district from which the territory is transferred an amount equal to the revenue raised in subsection (13)(a)(i) for
18 3 consecutive years following the transfer, with at least half of the annual payment made by December 31 and
19 the remainder made by June 15 of the same fiscal year.

20 (b) The school district from which territory is transferred shall deposit the received payment in its
21 flexibility fund or allocate it among its budgeted funds as determined by the trustees."

22
23 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 4] are intended to be
24 codified as an integral part of Title 20, chapter 6, part 1, and the provisions of Title 20, chapter 6, part 1, apply
25 to [sections 1 through 4].

26
27 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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