

SENATE BILL No. 551

AN ACT concerning schools and school districts; relating to powers and duties of the governing body thereof; relating to consolidation of districts and the transfer of territory; relating to community service programs; amending K.S.A. 12-105b and 72-5413 and K.S.A. 2001 Supp. 72-6445, 72-7108 and 72-8233; also repealing K.S.A. 72-8213.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 72-6445 is hereby amended to read as follows: 72-6445. (a) For the purposes of the school district finance and quality performance act, and notwithstanding any provision of the act to the contrary, state financial aid for any district formed by consolidation in accordance with the statutory provisions contained in article 87 of chapter 72 of Kansas Statutes Annotated shall be computed by the state board of education as follows:

~~(a)~~ (1) Determine the amount in the school year preceding the school year in which the consolidation is effectuated of the state financial aid of each of the former districts of which the consolidated district is composed;

~~(b)~~ (2) add the amounts determined under ~~(a)~~ subsection (a)(1). ~~The~~ *If the consolidation is effectuated commencing with the 2001-2002 school year and prior to July 1, 2004, the sum is the state financial aid of the consolidated district for the school year in which the consolidation is effectuated and for the next succeeding school year. For the next succeeding three school years, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section. If the consolidation is effectuated on or after July 1, 2004, the sum is the state financial aid of the consolidated district for the school year in which the consolidation is effectuated. For the next school year, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.*

(b) *The provisions of this subsection shall apply only if a school district is disorganized in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, and if all the territory which comprised such disorganized district is attached to a single school district.*

For the purposes of the school district finance and quality performance act, and notwithstanding any provision of the act to the contrary, state financial aid for any school district to which this subsection applies, shall be computed by the state board of education as follows:

(1) *Determine the amount in the school year preceding the school year in which the attachment of territory is effectuated of the state financial aid of each of the former districts of which the enlarged district is composed;*

(2) *add the amounts determined under subsection (b)(1). If the attachment is effectuated commencing with the 2001-2002 school year and prior to July 1, 2004, the sum is the state financial aid of the district for the school year in which the attachment is effectuated. For the next succeeding three school years, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section. If the attachment is effectuated on or after July 1, 2004, the sum is the state financial aid of the district for the school year in which the attachment is effectuated. For the next school year, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.*

The provisions of this subsection shall apply to any school district to which all of the territory of a disorganized district has been attached pursuant to an order issued by the state board of education during school year 2001-2002, or any time thereafter, under article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2001 Supp. 72-7108 is hereby amended to read as follows: 72-7108. (a) Transfers of territory from one unified district to another unified district shall be made only as follows: ~~(a)~~

(1) Upon the written agreement of any two boards approved by the state board of education; or ~~(b)~~

(2) upon order of the state board after petition therefor by one board and a public hearing thereon conducted by the state board of education.

(b) The effective date of any such transfer shall be the date of approval thereof or order therefor issued by the state board of education or the July 1 following.

(c) Notice of the public hearing on such a petition shall be given by publication by the state board of education for two consecutive weeks in a newspaper of general circulation in the unified district from which territory is to be transferred, the last publication to be not more than 10 nor less than three days prior to the date of the hearing. The notice shall state the time and place of the hearing and shall give a summary description of the territory proposed to be transferred.

(d) *Prior to issuing an order, the state board shall consider the following:*

(1) *City boundaries and the area within three miles surrounding any city with more than one district in the area;*

(2) *available capacity of districts involved in the territory transfer to serve existing or additional students;*

(3) *condition and age of buildings and physical plant;*

(4) *overall costs including renovation of existing buildings versus construction;*

(5) *cost of bussing;*

(6) *food service;*

(7) *administration and teachers;*

(8) *areas of interest including access and distances for parents to travel to participate in student activities;*

(9) *matters of commerce, including regular shopping areas, meeting places, community activities and youth activities;*

(10) *districts that are landlocked with changing demographics that cause declining enrollment; and*

(11) *effect on students living in the area.*

The foregoing shall not be deemed to limit the factors which the state board of education may consider.

(e) Within 90 days after receiving an agreement or, if a public hearing is held, within 90 days after the hearing, the state board of education shall issue its order either approving or disapproving such transfer petition or agreement, or approving the same with such amendments as it deems appropriate.

(f) Whenever a petition for transfer of territory has been denied by the state board of education, no petition for transfer of substantially the same territory shall be received or considered by the state board of education for a period of two years.

Sec. 3. K.S.A. 12-105b is hereby amended to read as follows: 12-105b. (a) All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) Claims for salaries or wages of officers or employees need not be signed by the officer or employee if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

Nothing in this subsection shall be construed as prohibiting the payment of employment incentive or retention bonuses authorized by section 5, and amendments thereto.

(c) No costs shall be recovered against a municipality in any action brought against it for any claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

(d) Any person having a claim against a municipality which could give rise to an action brought under the Kansas tort claims act shall file a

written notice as provided in this subsection before commencing such action. The notice shall be filed with the clerk or governing body of the municipality and shall contain the following: (1) The name and address of the claimant and the name and address of the claimant's attorney, if any; (2) a concise statement of the factual basis of the claim, including the date, time, place and circumstances of the act, omission or event complained of; (3) the name and address of any public officer or employee involved, if known; (4) a concise statement of the nature and the extent of the injury claimed to have been suffered; and (5) a statement of the amount of monetary damages that is being requested. In the filing of a notice of claim, substantial compliance with the provisions and requirements of this subsection shall constitute valid filing of a claim. The contents of such notice shall not be admissible in any subsequent action arising out of the claim. Once notice of the claim is filed, no action shall be commenced until after the claimant has received notice from the municipality that it has denied the claim or until after 120 days has passed following the filing of the notice of claim, whichever occurs first. A claim is deemed denied if the municipality fails to approve the claim in its entirety within 120 days unless the interested parties have reached a settlement before the expiration of that period. No person may initiate an action against a municipality unless the claim has been denied in whole or part. Any action brought pursuant to the Kansas tort claims act shall be commenced within the time period provided for in the code of civil procedure or it shall be forever barred, except that, if compliance with the provisions of this subsection would otherwise result in the barring of an action, such time period shall be extended by the time period required for compliance with the provisions of this subsection.

(e) Claims against a municipality which provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body in order for the municipality to benefit from the discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(f) When an employee is required to travel on behalf of a municipality, the employee shall be entitled, upon complying with the provisions of the municipality's policies and regulations on employee travel, to timely payment of subsistence allowances and reimbursement for transportation and other related travel expenses incurred by the employee while on an approved travel status. When reimbursement through the regular claims approval process of the municipality will require more than 15 days from the date the reimbursement claim is filed, the claim may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(g) Claims submitted by members of a municipality's self-insured health plan may be authorized to be paid in advance of approval thereof

by the governing body. Such claims shall be submitted to the administrative officer of such insurance plan.

(h) Claims against a school district for the purchase of food or gasoline while students are on a co-curricular or extra-curricular activity outside of the school boundaries may be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the school district in advance of its presentation to and approval by the governing body.

(i) Except as otherwise provided, before any claim is presented to the governing body or before any claim is paid by any officer or employee of the municipality under subsection (e) or (f), it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting the area of government concerned in the claim, and thereby approved in whole or in part as correct, due and unpaid.

Sec. 4. K.S.A. 72-5413 is hereby amended to read as follows: 72-5413. As used in this act and in acts amendatory thereof or supplemental thereto:

(a) The term “persons” includes one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(b) “Board of education” means the board of education of any school district, the board of control of any area vocational-technical school, and the board of trustees of any community college.

(c) “Professional employee” means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity, but shall not mean any such person who is an administrative employee.

(d) “Administrative employee” means, in the case of a school district, any person who is employed by a board of education in an administrative capacity and who is fulfilling duties for which an administrator’s certificate is required under K.S.A. 72-7513, and amendments thereto; and, in the case of an area vocational-technical school or community college, any person who is employed by the board of control or the board of trustees in an administrative capacity and who is acting in that capacity and who has authority, in the interest of the board of control or the board of trustees, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(e) “Professional employees’ organizations” means any one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or part, of engaging in professional negotiation with boards of education with respect to the terms and conditions of professional service.

(f) “Representative” means any professional employees’ organization or any person it authorizes or designates to act in its behalf or any person a board of education authorizes or designates to act in its behalf.

(g) “Professional negotiation” means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

(h) “Mediation” means the effort through interpretation and advice by an impartial third party to assist in reconciling a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation between a board of education or its representatives and representatives of the recognized professional employees’ organization.

(i) “Fact-finding” means the investigation by an individual or board of a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation, and the submission of a report by such individual or board to the parties to such dispute which includes a determination of the issues involved, findings of fact regarding

such issues, and the recommendation of the fact-finding individual or board for resolution of the dispute.

(j) “Strike” means an action taken for the purpose of coercing a change in the terms and conditions of professional service or the rights, privileges or obligations thereof, through any failure by concerted action with others to report for duty including, but not limited to, any work stoppage, slowdown, or refusal to work.

(k) “Lockout” means action taken by a board of education to provoke interruptions of or prevent the continuity of work normally and usually performed by the professional employees for the purpose of coercing professional employees into relinquishing rights guaranteed by this act and the act of which this section is amendatory.

(l) (1) “Terms and conditions of professional service” means ~~(1)~~ (A) salaries and wages, including pay for duties under supplemental contracts; hours and amounts of work; vacation allowance, holiday, sick, extended, sabbatical, and other leave, and number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty; grievance procedure; including binding arbitration of grievances; disciplinary procedure; resignations; termination and nonrenewal of contracts; reemployment of professional employees; terms and form of the individual professional employee contract; probationary period; professional employee appraisal procedures; each of the foregoing being a term and condition of professional service, regardless of its impact on the employee or on the operation of the educational system; ~~and (2)~~ (B) matters which relate to privileges to be granted the recognized professional employees’ organization including, but not limited to, voluntary payroll deductions; use of school or college facilities for meetings; dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit, the use of bulletin boards on or about the facility, and the use of the school or college mail system to the extent permitted by law; reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit; any of the foregoing privileges which are granted the recognized professional employees’ organization through the professional negotiation process shall not be granted to any other professional employees’ organization; and ~~(3)~~ (C) such other matters as the parties mutually agree upon as properly related to professional service *including, but not limited to, employment incentive or retention bonuses authorized under section 5, and amendments thereto.*

(2) Nothing in this act, ~~or acts amendatory thereof or supplemental and amendments thereto,~~ shall authorize the diminution of any right, duty or obligation of either the professional employee or the board of education which have been fixed by statute or by the constitution of this state. Except as otherwise expressly provided in this subsection (1), the fact that any matter may be the subject of a statute or the constitution of this state does not preclude negotiation thereon so long as the negotiation proposal would not prevent the fulfillment of the statutory or constitutional objective.

(3) Matters which relate to the duration of the school term, and specifically to consideration and determination by a board of education of the question of the development and adoption of a policy to provide for a school term consisting of school hours, are not included within the meaning of terms and conditions of professional service and are not subject to professional negotiation.

(m) “Secretary” means the secretary of human resources or a designee thereof.

(n) “Statutory declaration of impasse date” means June 1 in the current school year.

(o) “Supplemental contracts” means contracts for employment duties other than those services covered in the principal or primary contract of employment of the professional employee and shall include, but not be limited to, such services as coaching, supervising, directing and assisting extracurricular activities, chaperoning, ticket-taking, lunchroom supervision, and other similar and related activities.

New Sec. 5. (a) As used in this section:

(1) “Teacher” means teachers, supervisors, principals, superintendents and any other professional employees who are required to hold a teacher’s or school administrator’s certificate in any public school.

(2) “Board of education” means the board of education of any public school district.

(b) The board of education may pay employment incentive or retention bonuses to teachers.

New Sec. 6. (a) As used in this section, “school building” means any building or structure operated or maintained by the board of education of a unified school district.

(b) The board of education of any unified school district, by adoption of a resolution, may close any school building at any time the board determines that the building should be closed to improve the school system of the unified school district. The board of education may close more than one school building in one resolution. A resolution adopted pursuant to this section shall require a majority vote of the members of the board of education and shall require no other approval.

(c) Prior to adopting a resolution closing any school building, the board of education shall call and hold a hearing on the proposal. The notice of such hearing shall include the reasons for the proposed closing, the name of any affected building and the name of any school building to which the involved pupils shall be reassigned. Such notice also shall include the time, date and place of the public hearing to be held on the proposal. Such notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the school district. The last publication shall be at least 10 but not more than 20 days prior to the date of the public hearing.

At such hearing, the board shall hear testimony as to the advisability of the proposed closing, and a representative of the board shall present the board’s proposal for such closing. Following the public hearing, or any continuation of such hearing, and after considering all of the testimony and evidence presented or submitted at the public hearing, the board shall determine whether the school building should be closed to improve the school system of the unified school district.

Sec. 7. K.S.A. 2001 Supp. 72-8233 is hereby amended to read as follows: 72-8233. (a) In accordance with the provisions of this section, the boards of education of any two or more unified school districts may make and enter into agreements providing for the attendance of pupils residing in one school district at school in kindergarten or any of the grades one through 12 maintained by any such other school district. The boards of education may also provide by agreement for the combination of enrollments for kindergarten or one or more grades, courses or units of instruction.

(b) Prior to entering into any agreement under authority of this section, the board of education shall adopt a resolution declaring that it has made a determination that such an agreement should be made and that the making and entering into of such an agreement would be in the best interests of the educational system of the school district. Any such agreement is subject to the following conditions:

(1) The agreement may be for any term not exceeding a term of five years.

(2) The agreement shall be subject to change or termination by the legislature.

(3) Within the limitations provided by law, the agreement may be changed or terminated by mutual agreement of the participating boards of education.

(4) The agreement shall make provision for transportation of pupils to and from the school attended on every school day, for payment or sharing of the costs and expenses of pupil attendance at school, and for the authority and responsibility of the participating boards of education.

(c) Provision by agreements entered into under authority of this section for the attendance of pupils at school in a school district of nonresidence of such pupils shall be deemed to be compliance with the kindergarten, grade, course and units of instruction requirements of law.

(d) The board of education of any school district which enters into an agreement under authority of this section for the attendance of pupils

at school in another school district may discontinue kindergarten or any or all of the grades, courses and units of instruction specified in the agreement for attendance of pupils enrolled in kindergarten or any such grades, courses and units of instruction at school in such other school district. Upon discontinuing kindergarten or any grade, course or unit of instruction under authority of this subsection, the board of education may close any school building or buildings operated or used for attendance by pupils enrolled in such discontinued kindergarten, grades, courses or units of instruction. The closing of any school building under authority of this subsection shall require a majority vote of the members of the board of education and shall require no other procedure or approval. ~~The provisions of this subsection shall be deemed alternative to the provisions of K.S.A. 72-8213, and amendments thereto, and the procedure and authorization for the closing of school buildings under this subsection shall not be limited by the provisions of such cited statutory section.~~

(e) Pupils attending school in a school district of nonresidence of such pupils in accordance with an agreement made and entered into under authority of this section shall be counted as regularly enrolled in and attending school in the school district of residence of such pupils for the purpose of computations under the school district finance and quality performance act.

(f) Pupils who satisfactorily complete grade 12 while in attendance at school in a school district of nonresidence of such pupils in accordance with the provisions of an agreement entered into under authority of this section shall be certified as having graduated from the school district of residence of such pupils unless otherwise provided for by the agreement.

New Sec. 8. (a) The state board of education shall provide for a community service program to be offered to all accredited high schools in this state.

(b) As used in this section, the term “community service” means a service performed by a high school student, without monetary compensation or remuneration, for the purpose of benefiting the student’s community. The service performed may include, but not by way of limitation, mentoring or tutoring elementary school pupils, assisting in a nursing home or adult care center, providing lawn care or performing other tasks for senior citizens or disabled persons, assisting in a homeless shelter or a soup kitchen, organizing or assisting in fund raisers for disaster victims and other needy persons, assisting community-based nonprofit agencies that provide programs and services for low-income people, the disabled and the elderly, assisting fraternal organizations in charitable activities.

Sec. 9. K.S.A. 12-105b, 72-5413 and 72-8213 and K.S.A. 2001 Supp. 72-6445, 72-7108 and 72-8233 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.