ENGROSSED HOUSE
BILL NO. 1049

By: Reese of the House

and

Milacek of the Senate

An Act relating to schools; amending 70 O.S. 1991, Sections 7-101, as last amended by Section 1, Chapter 71, O.S.L. 1994, and 7-105, as last amended by Section 1, Chapter 75, O.S.L. 1994 (70 O.S. Supp. 1996, Sections 7-101 and 7-105), which relate to annexation and consolidation; providing certain exception for annexing procedures; providing for consolidation on a conditional basis; stating restrictions of a conditional consolidated school district; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 7-101, as last amended by Section 1, Chapter 71, O.S.L. 1994 (70 O.S. Supp. 1996, Section 7-101), is amended to read as follows:

Section 7-101. A. ~~The~~ Except as otherwise provided for in Section 7-105 of this title for conditional consolidated school districts, the territory comprising all or part of a school district may be annexed to another school district or to two or more districts, when approved at an annexation election called by the State Superintendent of Public Instruction, but except as provided

in subsection B of this section, an annexation election may not be held unless the boards of education of the affected districts concur therein. Provided, that such concurrence of the boards of education affected shall not be required in cases of mandatory annexation by the State Board of Education:

1. In pursuance of a petition for annexation signed by a majority of the school district electors in the territory proposed to be annexed, hereinafter referred to as the area affected, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition as provided in this section; or

2. In pursuance of a resolution adopted by the board of education of the district in which the area affected is situated.

B. An annexation election shall be called by the State Superintendent of Public Instruction without the concurrence of the board of education of the school district which is proposed to be annexed, upon the filing of a petition with the State Superintendent of Public Instruction for annexation that is signed by a majority of the school district electors in the school district proposed to be annexed, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition. The petition shall contain such information as the State Superintendent of Public Instruction may require.

C. Annexation elections held pursuant to this section shall be conducted pursuant to the following procedures:

1. Such election shall be held not less than sixty (60) days nor more than ninety (90) days after the State Superintendent of

Public Instruction receives such petition, at some public place in the school district in which the area affected is situated, between the hours of 7 a.m. and 7 p.m., and notice thereof shall be given by the State Superintendent of Public Instruction in the same manner as notice of special elections of the school district electors of school districts is given, provided, that the State Superintendent of Public Instruction shall not be required to call an election for the purpose of annexing a part of a school district more than once during any twelve-month period. Such elections shall be conducted by the county election board;

2. The annexation shall be approved by a majority of the school district electors voting at such election:

a. ~~Of~~ of an entire school district~~;~~, or

b. ~~If~~ if a majority of the members of a board of education of a school district losing the territory concur with the petitioners, or resolution, only the legal voters of the area so affected shall be eligible to vote at such election.

~~Provided that, if~~ If the area proposed to be annexed constitutes less than two percent (2%) of the total area of the school district in which such area is located, and there are no qualified electors residing in such area, no election shall be held. In such instance the board of education of the school district wherein the area proposed to be annexed is located and the board of education of the school district to which such area is proposed to be annexed shall each adopt a resolution approving such annexation and shall transmit certified copies of both resolutions to the State Superintendent of Public Instruction who shall, within five (5) days after receiving copies of such resolutions, make an order declaring the annexation as approved in the resolutions. Copies of the annexation order shall be transmitted to the State Board of Education, Oklahoma Tax

Commission, county clerk, county treasurer, county assessor and to the boards of education of the school districts involved;

3. The annexation shall be approved by a majority of the school district electors of the area affected, voting at such election, if the area affected is an area within a school district in which, as a result of condemnation proceedings by the federal government, a majority of the pupils of said area have attended school, for at least one school term, in the district to which the petition requests annexation;

4. If the annexation of an entire district is approved, as ~~hereinbefore~~ provided for in this section, the State Superintendent of Public Instruction shall, within five (5) days after such election, issue an order declaring the annexation as requested in the petition or resolution for annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies, but the annexation shall not become effective until the time for filing an appeal, as hereinafter provided, has expired. In the event a majority of the electors voting at such election do not vote for the annexation, the State Superintendent of Public Instruction shall, within five (5) days after such election, issue an order denying the annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies. Within ten (10) days after the order of the State Superintendent of Public Instruction is issued, twenty-five percent (25%) of the school district electors who were eligible to vote at the annexation election may appeal to the district court of the county in which the territory proposed to be annexed, or the largest part thereof if such territory lies in more than one county, is situated, and thereafter all proceedings shall be stayed until the district court

has rendered judgment. The proceedings shall be given precedence over all other civil matters. In the event the court issues a final order upholding a partial annexation, the effective date of said partial annexation shall be July 1 following the final order. All pending annexation proceedings are hereby exempted from this act. The State Board of Education shall be required to change the boundary lines as described in the declaration after all litigation has expired;

5. Upon the effective date of the annexation of an entire school district to one or more school districts, the board of education of the school district whose territory was annexed shall be declared abolished by the State Superintendent of Public Instruction. If a school district to which the territory was annexed currently has a five-member board of education, that school district board of education shall have the option of forming a seven-member board of education pursuant to the provisions of Section 5-107A of this title upon the effective date of the annexation; and

6. If an independent district annexes to an elementary district not maintaining a high school, both boards of education are abolished. The Governor shall appoint three members of the newly formed district to the board of education and these members shall appoint the remaining two members.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 7-105, as last amended by Section 1, Chapter 75, O.S.L. 1994 (70 O.S. Supp. 1996, Section 7-105), is amended to read as follows:

Section 7-105. A. Two or more school districts may, whether adjacent or not adjacent, be consolidated into a single school district in accordance with standards, rules and procedures to be determined by the State Board of Education. When the consolidation of two or more school districts is proposed, the State Board of Education shall conduct such studies of the populations, wealth,

terrain, trade areas and other factors as may be necessary to determine the location of boundaries and the size of a proposed district which will most nearly ensure an efficient and economical administrative unit. The State Board of Education shall furnish the boards of education of the school districts which might be involved information and advice as to where the boundaries and what the size of the proposed new district should be. Nothing herein shall be construed to prevent the inclusion within a school district of territory lying within the boundaries of two or more counties.

B. Ten percent (10%) of the qualified school electors in any district may petition the board of education of such district to request such information, or a board of education of such district may on its own initiative ask for information and advice from the State Board of Education on the educational advantages and disadvantages of proposed consolidation to the children and residents of the area which might be affected. Upon the receipt of such a petition, the local board of education shall request the services of the State Board of Education and shall notify the boards of education in adjacent school districts that such a request has been made. The State Board of Education may on its own initiative make the study herein authorized of any area of the state and direct the board of education of such school districts as might be involved to set into operation in their districts the procedure for determining what, if any, consolidation should be carried on in the area under study.

C. Any rules or procedures which the State Board of Education may prescribe for consolidation of school districts shall include the opportunity for the qualified school electors in the school districts involved to express their wishes through a majority vote of the school electors in the entire territory involved.

D. Prior to an election for consolidation, the boards of education of the school districts involved may develop a plan which

shall set forth the actions to be taken during and after consolidation. The plan of action shall include agreements relating to school site closing, disposition and utilization of property and equipment and such other agreements as may be necessary to facilitate the consolidation of the school districts. The plan of action shall also include provisions related to the area school district the newly formed district will be a part of which are consistent with the State Board of Vocational and Technical Education rules. The plan shall be placed on a separate ballot and voted on by the qualified school electors of each district at the time of the consolidation election. Both the plan and consolidation questions must be approved by a majority vote for the plan to take effect. The plan shall be binding on the board of education of the newly formed district for at least three (3) years; provided, any provisions related to the expenditure of appropriated money shall not be binding beyond the current fiscal year. The newly formed district may alter or disregard the plan only if there is a significant change in circumstances, including a significant drop in revenue to the district or in student enrollment.

E. Two or more school districts may be consolidated into a single school district on a conditional basis. If the voters approve conditional consolidation of the school districts at an election for such purpose in accordance with the procedures set forth in this section, the newly formed school district shall be considered consolidated and shall go through the same procedure and meet the same requirements as any consolidated school district. Under a conditional consolidation plan, any subsequent decision to consolidate the new school district or annex all or part of the new school district, shall first be approved by a majority of the electors of each of the original school districts. If one or more of the original school districts disapproves the consolidation or annexation plan, the plan shall not be approved. The original

school district shall mean only the districts which independently voted to join the conditionally consolidated district.

F. An election for such purpose shall be held either upon:

1. A petition for consolidation or conditional consolidation, signed by forty percent (40%) of the school district electors of each school district included in the proposed consolidation, or conditional consolidation said percentage being applied to the highest number of voters voting in a regular school election in the district in the preceding five (5) years as determined by the secretary of the county election board, ~~which~~ who shall certify the adequacy of the number of signatures on the petition; or

2. The concurrence of the boards of education of the school districts included in the proposed consolidation or conditional consolidation, as shown by a resolution adopted by each board. The election shall be called by the State Board of Education and conducted in accordance with the general election laws of this state. Any vote to consolidate two or more districts, shall require a majority vote of those voting in each school district involved. When such a majority vote is in favor of consolidation or conditional consolidation, the State Board of Education shall declare the participating school districts dissolved and the new school district established, and the newly formed district shall thereupon be governed by the provisions of the Oklahoma School Code.

~~F.~~ G. The State Superintendent of Public Instruction or ~~his~~ designee shall convene the members of the boards of the districts forming the new district, who shall be given the opportunity of selecting from among themselves the initial board of education for the new district, selecting the number of members and designating the initial terms of service of each as required to conform to law; provided, the members convened shall have the option of forming a seven-member board pursuant to the provisions of Section 5-107A of this title rather than a board of the size otherwise provided by law

and shall have the option of temporarily increasing the number of board positions for the new district by two positions per consolidating district for the first two (2) years following consolidation. The temporary positions will be filled by appointment by the board. The temporary board positions shall be abolished two (2) years from the effective date of consolidation. Within ten (10) days following the declaration of establishment of the new district, the State Superintendent or ~~his~~ designee shall declare the agreement or shall declare that such agreement has not been reached, in which case persons serving as members of the board of education of the participating district having the largest number of enumerated children as shown by the last regular enumeration shall serve as members of the board of education of the newly formed district for the terms for which they were elected and until their successors have been duly elected or appointed and have qualified.

~~G.~~ H. All liabilities, assets, powers and duties of the participating districts shall become the responsibility of the new school district, which district shall be the legal successor in every respect to the school districts participating in the consolidation or conditional consolidation in accordance with law.

SECTION 3. This act shall become effective July 1, 1997.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate