

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2348

By: Calvey

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Sections 7-101, as last amended by Section 1, Chapter 300, O.S.L. 1999 and 7-104, as amended by Section 32, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1999, Sections 7-101 and 7-104), which relate to annexation of school districts; providing for a petition process for annexation of a certain area; allowing certain electors to vote for annexation in certain affected areas; requiring the concurrence of the board of education of the school district gaining the territory; providing for the acquisition of property, debts and obligation of an area affected by certain type of annexation election; 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 300, O.S.L. 1999 (70 O.S. Supp. 1999, Section 7-101), is amended to read as follows:

Section 7-101. A. 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 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. An annexation election shall be called by the State Superintendent of Public Instruction with the concurrence of the board of education of the school district to which the area 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 area affected, when the area affected is within a county with two hundred and fifty thousand (250,000) or more in population and is within the city limits of a municipality in which less than one-half (1/2) of the residents of the municipality are residents of the school district, the majority to be determine pursuant to this subsection. 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~~ The 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 an entire school district, ~~or~~
- b. 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, ~~or~~
- c. if the affected area is part of a school district with thirty thousand (30,000) or more average daily membership, if the boundaries of the affected area is not contiguous with the boundaries of the rest of the district, and if the boundary of the noncontiguous affected area is a least two (2) miles from the nearest boundary of the rest of the district, only the legal voters of the area so affected shall be eligible

to vote at such election. Provided, if there is an incorporated city located wholly within the separate noncontiguous affected area, the annexation election being held shall not effect the area within the boundaries of the incorporated area unless a majority of the school district electors within the boundaries of the incorporated area also file a petition requesting annexation as required in subsection B of this section, or

d. if the affected area is within a county with two hundred and fifty thousand (250,000) or more in population and is within the city limits of a municipality in which less than one-half (1/2) of the residents of the municipality are residents of the school district, only the legal voters of the area so affected shall be eligible to vote at such election. Provided, an annexation election shall not be held unless the board of education gaining the territory concurs therein.

If the area proposed to be annexed constitutes less than two percent (2%) of the total area of the school district in which ~~such~~ the area is located, and there are no qualified electors residing in ~~such~~ the 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~~ the 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~~ the 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~~ the 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 provided for in this section, the State Superintendent of Public Instruction shall, within five (5) days after ~~such~~ the 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 7-104, as amended by Section 32, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1999, Section 7-104), is amended to read as follows:

Section 7-104. A. In case the area affected comprises an entire school district, and all of ~~such~~ the area is annexed to only one other district, the district to which it is annexed shall become the owner of all the property and other assets of the disorganized district and shall be liable for the current debts and other obligations of ~~such~~ the disorganized district, and ~~said~~ the district

shall also acquire title to and provide for permanent custody of all individual scholastic and other permanent records relating to each pupil who was previously enrolled in the annexed district.

B. In case the area affected comprises an entire school district, and is annexed to two or more districts, then the current debts or obligations and property and other assets of the disorganized district shall be divided by agreement between the boards of education of the annexing districts, and the board of education of either of the annexing districts may purchase any such property or assets to effect a just division. If the boards of education are unable to agree, the matter shall be decided by the State Board of Education, and its decision shall be final.

C. ~~In~~ Except as otherwise provided for in subsection D of this section, in case the area affected is not an entire school district, the district to which the annexation is made shall not acquire any of the property or assets of the district from which the area affected is detached, except that any school building or buildings located in the affected area shall become the property of the district to which the affected area is annexed and all obligations pertaining thereto shall become the responsibility of the annexing district.

D. In case the area affected is not an entire school district and is approved as provided for in subparagraph d of paragraph 2 of subsection C of Section 7-101 of this title, the district to which the annexation is made shall become the owner of all the property and other assets of the areas affected and shall be liable for the current debts and other obligations of the area affected. The district shall also acquire title to and provide for permanent custody of all individual and scholastic and other permanent records relating to each student who was previously enrolled in school sites in the area affected.

E. If any mandatory or voluntary annexation made under the provisions of this article shall occur after the election on school district levies for the ensuing fiscal year and before the tax levies of the ensuing year have been made and certified, the operating and building levies authorized for the annexing district shall be the levies for all the said district after such annexation. All mandatory or voluntary annexations made and ordered subsequent to the certification of the budgets and levies to the State Auditor and Inspector shall be forthwith effective regardless of any variation in ~~such~~ the levies; and the budgetary assets of the annexed district or districts theretofore so certified as unexpended and unencumbered shall be merged by supplementary procedure with the budgetary assets of the annexing district.

~~E.~~ F. In case the area affected is annexed to two or more districts or the area affected is not an entire school district, the individual scholastic and other permanent records relating to each pupil enrolled at the time of annexation shall be transferred to the respective districts where said pupils are transferred. All other individual scholastic and other permanent records relating to pupils in said areas or entire districts affected shall be filed with the county clerk of the county where supervision of the annexed school district is located.

SECTION 3. This act shall become effective July 1, 2000.

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.

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