

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

695J0125

SENATE EDUCATION COMMITTEE ENGROSSED NO.

HB 1114 - 02/12/2004

Introduced by: Representatives Dykstra, Bartling, Christensen, Gillespie, Hackl, Olson (Mel), and Peterson (Jim) and Senators Albers, Abdallah, Kooistra, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to school district
2 boundary changes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-6-84.1 be amended to read as follows:

5 13-6-84.1. In all proposed changes in school district boundaries, the following conditions
6 shall prevail:

7 (1) The boundary of the area proposed to be transferred shall be coterminous at some
8 point with the common boundary of the two school districts. Land owned by the
9 federal, state, or local governments and unoccupied land ~~owned by a nonresident~~
10 ~~individual or corporation~~ may be included in the request;

11 (2) Children must reside within the boundary of the area to be transferred, unless it is an
12 area change initiated by a school board as provided in § 13-6-84.2.

13 Section 2. That § 13-6-85 be amended to read as follows:

14 13-6-85. A boundary change, affecting not more than two percent of the assessed valuation
15 and not more than two percent of the tax-exempt acreage or other tax-exempt property to be



1 determined at the discretion of the school district from which the area is to be taken, may be
2 made upon an application for a boundary change to the school board of the school district from
3 which the area is to be taken and to the school board of the school district to which the area is
4 to be annexed, in the form of a petition signed by ~~over fifty percent~~ all of the ~~voters residing~~
5 owners of land, excluding land owned by the state or any other political subdivision in the area
6 to be transferred by the boundary change. Copies of the petitions shall also be delivered by the
7 petitioners to the board of county commissioners having jurisdiction over the school districts
8 affected. Any petitioner who is aggrieved by a decision of the school board under this section
9 may appeal that decision.

10 An appeal from the decision of the school board may be made to the circuit court in the time
11 and manner specified by § 13-46-1 or to the secretary of the Department of Education or ~~his~~ the
12 secretary's representative within thirty days from the date of the decision of the school board by
13 filing a notice with the secretary of the school board and mailing a copy ~~thereof~~ of the notice to
14 the secretary of the Department of Education. An appeal to the secretary of the Department of
15 Education may be heard by the secretary or ~~his~~ the secretary's representative. The secretary of
16 the Department of Education shall thereafter set a time and place for the hearing and give at
17 least ten days' written notice of the hearing to the parties involved in the appeal, including all
18 affected school districts. An appeal to the secretary is not a "contested case" subject to chapter
19 1-26. An appeal from the decision of the secretary may be made pursuant to § 13-6-89. On
20 appeal from a decision of the secretary, the appeal shall be heard and determined in the same
21 manner as a direct appeal from the school board decision pursuant to § 13-6-89 and chapter
22 13-46 without any presumption of the correctness of the decision of the secretary nor may the
23 provisions of § 1-26-36 be applied to the decision of the secretary. Nothing in this section ~~shall~~
24 ~~affect~~ affects the right of an aggrieved party to appeal from the decision of the school board to

1 the circuit court.