

LEGISLATIVE BILL 711

Approved by the Governor February 25, 2010

Introduced by Dierks, 40.

FOR AN ACT relating to schools; to amend section 79-4,108, Reissue Revised Statutes of Nebraska, sections 79-1022, 79-1026.01, 79-1027, and 79-1031.01, Revised Statutes Supplement, 2009, and section 79-1023, Revised Statutes Supplement, 2009, as amended by section 11, Legislative Bill 5, One Hundred First Legislature, First Special Session, 2009; to change provisions relating to interlocal agreements for unified school systems; to change dates relating to certification of state aid under the Tax Equity and Educational Opportunities Support Act; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-4,108, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,108 (1) Unified system means two or more Class II or III school districts participating in an interlocal agreement under the Interlocal Cooperation Act with approval from the State Committee for the Reorganization of School Districts. The interlocal agreement may include Class I districts if the entire valuation is included in the unified system. The interlocal agreement shall provide:

(a) For ~~for~~ a minimum term of three school years;

(b) That ~~The agreement shall provide that~~ all property tax and state aid resources shall be shared by the unified system;

(c) That ~~and that~~ a board composed of school board members, with at least one school board member from each district, shall determine the general fund levy, within the limitations placed on school districts and multiple-district school systems pursuant to section 77-3442, to be applied in all participating districts and shall determine the distribution of property tax and state aid resources within the unified system. For purposes of section 77-3442, the multiple-district school system shall include all of the Class I, II, and III districts participating in the unified system and the Class I districts or portions thereof affiliated with any of the participating Class II and III districts;

(d) That ~~The interlocal agreement shall also provide that~~ certificated staff will be employees of the unified system. For any certificated staff employed by the unified system, tenure and seniority as of the effective date of the interlocal agreement shall be transferred to the unified system and tenure and seniority provisions shall continue in the unified system except as provided in sections 79-850 to 79-858. If a district withdraws from the unified system or if the interlocal agreement expires and is not renewed, certificated staff employed by a participating district immediately prior to the unification shall be reemployed by the original district and tenure and seniority as of the effective date of the withdrawal or expiration shall be transferred to the original district. The certificated staff hired by the unified system but not employed by a participating district immediately prior to the unification shall be subject to the reduction-in-force policy of the unified system;

(e) That the ~~The interlocal agreement shall also require~~ participating districts ~~to~~ shall pay obligations of the unified system pursuant to sections 79-850 to 79-858 on a pro rata basis based on the adjusted valuations if a district withdraws from the unified system or if the interlocal agreement expires and is not renewed; ~~and~~

(f) The permissible method or methods for accomplishing the partial or complete termination of the interlocal agreement and for disposing of assets and liabilities upon such partial or complete termination.

Additional provisions in the interlocal agreement shall be determined by the participating districts and shall encourage cooperation within the unified system.

(2) Application for unification shall be made to the state committee. The application shall contain a copy of the interlocal agreement signed by the president of each participating school board. The state committee shall approve or disapprove applications for unification within forty days after receipt of the application. If the interlocal agreement complies with subsection (1) of this section and all school boards of the participating districts have approved the interlocal agreement, the state committee shall approve the application. Unification agreements shall be

effective on June 1 following approval from the state committee for status as a unified system or on the date specified in the interlocal agreement, except that the date shall be on or after June 1 and on or before September 1 for a specified year. The board established in the interlocal agreement may begin meeting any time after the application has been approved by the state committee.

(3) Upon granting the application for unification, the State Department of Education shall recognize the unified system as a single Class II or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting, except that the department shall require such reporting on an individual district basis as necessary to calculate formula need pursuant to the Tax Equity and Educational Opportunities Support Act separately for each participating district beginning with the calculation of state aid for school fiscal year 2009-10. Except as otherwise required by the department, the unified system shall submit a single report document for each of the reports required of school districts pursuant to Chapter 79 and shall submit a single budget document pursuant to the Nebraska Budget Act and sections 13-518 to 13-522. The class of district shall be the same as the majority of participating districts, excluding Class I districts. If there are an equal number of Class II and Class III districts in the unified system, the unified system shall be recognized by the department as a Class III district.

(4) The school districts participating in a unified system shall retain their separate identities for all purposes except those specified in this section, and participation in a unified system shall not be considered a reorganization.

~~(5) The withdrawal of a participating school district from a unified system or dissolution of a unified system shall occur only if each participating school district in such unified system either will be merged with at least one other school district or will continue participation in such unified system with at least one other participating school district following such withdrawal or dissolution. The withdrawal of a participating school district from a unified system or dissolution of a unified system shall be accomplished and the rights and liabilities of the participating school districts determined through an action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act. An action under the act praying for the withdrawal of a participating school district, dissolution of the unified system, or a declaration of the rights and liabilities of the participating school districts may be brought by the school board of any participating school district. The court shall have jurisdiction to determine all matters relating to the rights and liabilities of the participating school districts, including, but not limited to, the allocation among the participating school districts of (a) the certificated staff employed by the unified system among the participating school districts, (b) the real and personal property acquired by and held in the name of the unified system, (c) the local, state, and federal revenue of the unified system, including state aid to be paid to the unified system for the year following the withdrawal of a participating school district or the dissolution of the unified system, and (d) the liability for the repayment pursuant to subsection (8) of section 79-1010 of any incentive aid received by the unified system and its participating school districts, which liability shall be subtracted from the state aid of the participating school districts to which such repayment is allocated for the school fiscal years following the last school fiscal year of participation of a withdrawing school district or the operation of the dissolved unified system. The State Department of Education shall implement and enforce all terms of any decree of declaratory judgment entered pursuant to this section.~~

~~(6) After April 3, 2008, the State Committee for the Reorganization of School Districts shall not approve or order into effect any new unified system under this section. The committee may approve and order into effect the addition of school districts to a unified system or the continuation of a unified system if the continuing unified system will consist of at least two school districts which are continuing participation in the unified system.~~

Sec. 2. Section 79-1022, Revised Statutes Supplement, 2009, is amended to read:

79-1022 (1) On ~~or before June 1, 2009,~~ on or before March 1, 10, 2010, and on or before February 1 of each year thereafter, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional

based on: (a) For school fiscal years prior to school fiscal year 2008-09, the weighted formula students attributed to each district in the local system; and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, the formula students attributed to each district in the local system. The amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On ~~or before June 1, 2009,~~ ~~en~~ or before March 1, 10, 2010, and on or before February 1 of each year thereafter, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. Certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in subsection (8) of section 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

Sec. 3. Section 79-1023, Revised Statutes Supplement, 2009, as amended by section 11, Legislative Bill 5, One Hundred First Legislature, First Special Session, 2009, is amended to read:

79-1023 (1) On ~~or before June 1, 2009,~~ ~~en~~ or before March 1, 10, 2010, and on or before February 1 of each year thereafter, the department shall determine and certify to each school district the maximum general fund budget of expenditures minus the special education budget of expenditures for the immediately following school fiscal year.

(2) Except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.

Sec. 4. Section 79-1026.01, Revised Statutes Supplement, 2009, is amended to read:

79-1026.01 For school fiscal year 2008-09 and each school fiscal year thereafter, ~~en~~ ~~or before June 1, 2009,~~ on or before March 1, 10, 2010, and on or before February 1 of each year thereafter, the department shall determine and certify to each Class II, III, IV, or V district an applicable allowable growth rate carried out at least four decimal places as follows:

(1) The department shall establish a target budget level range of general fund operating expenditure levels for each school fiscal year for each school district which shall begin at twenty percent less than the school district's formula need and end at the school district's formula need. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(2) For each school fiscal year, each school district's general fund operating expenditures shall be compared to its target budget level along the

range described in subdivision (1) of this section to arrive at an applicable allowable growth rate as follows: If each school district's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each school district's general fund operating expenditures are greater than the higher end of the range, the school district's allowable growth rate shall be the basic allowable growth rate identified in such section. If each school district's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the school district.

Sec. 5. Section 79-1027, Revised Statutes Supplement, 2009, is amended to read:

79-1027 No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On ~~or before June 1, 2009,~~ ~~on~~ or before March ~~1,~~ 10, 2010, and on or before February 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Sec. 6. Section 79-1031.01, Revised Statutes Supplement, 2009, is amended to read:

79-1031.01 The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts ~~on or before June 1, 2009,~~ on or before March ~~1,~~ 10, 2010, and on or before February 1 for each school year thereafter in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Sec. 7. Original section 79-4,108, Reissue Revised Statutes of Nebraska, sections 79-1022, 79-1026.01, 79-1027, and 79-1031.01, Revised Statutes Supplement, 2009, and section 79-1023, Revised Statutes Supplement, 2009, as amended by section 11, Legislative Bill 5, One Hundred First Legislature, First Special Session, 2009, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.