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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 117
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Brinkman

Mike Niemi, Research Analyst

SUMMARY

- Repeals a provision of current law that permits the transfer of school district territory located in a township split between two or more school districts through a petition and vote of electors residing in that territory.
- Creates a provision that permits the transfer of district territory located in a township, city, or village split between two or more districts through a petition and vote of electors residing in that territory.
- Declares an emergency.

DETAILED ANALYSIS

The bill addresses school district territory transfers in two ways. First, it repeals a provision of current law that permits the transfer of school district territory located in a township split between two or more school districts through a petition and vote of electors residing in that territory. Second, it creates a new, but similar process that permits the transfer of school district territory in a township, city, or village through a petition and vote of electors residing in that territory.

The school district territory transfer processes repealed and created under the bill are in addition to other school district territory transfers prescribed under continuing law. Those other processes are not affected by the bill.¹

Repealed territory transfer provision

The bill immediately repeals a provision of current law that permits the transfer of school district territory located in a township split between two or more school districts

¹ See R.C. 3311.22, 3311.231, 3311.24, and 3311.38, none in the bill.

through a petition and vote of electors residing in that territory. It also repeals provisions of S.B. 89 of the 133rd General Assembly that repealed same territory transfer authority on September 1, 2021, and permitted a transfer under that provision that was ongoing on that date to continue.²

The provision of current law repealed by the bill and S.B. 89 was found unconstitutional by the federal U.S. District Court for the Southern District of Ohio on September 11, 2020. The district court found that the enactment of that provision in H.B. 166 of the 133rd General Assembly, was a violation of the Ohio Constitution's single-subject rule. Thus, the district court invalidated the provision and enjoined the State Board of Education from approving any territory transfer under it.³

New territory transfer provision

The bill creates a new process for transferring territory between school districts that is similar to the repealed provision. Under the bill, electors residing in a school district's territory that is located within a township, city, or village split between two or more school districts may petition for the transfer of territory to another school district.⁴

Upon receiving a petition signed by at least 10% of the electors voting in the last general election, the board of the district that is losing territory must cause the county board of elections to check the sufficiency of signatures on the petition. If the board of elections determines the petition has sufficient signatures, it must certify the petition to the district board losing territory.⁵

The district board then must file the proposal, including a map of the territory's boundaries, with the State Board and certify the proposal to the county board of elections or, if more than one county is involved, the board of elections of the most populous county in which the district is located. If more than one county is involved, the board of elections of the most populous county must certify the proposal to the other county boards of election.⁶

Upon receiving a certified proposal, the board or boards of elections must submit the proposal to electors within the territory at a special election on the day of the next general or primary election at least 90 days after the petition is certified or at a special election on a date specified in the certification, which is at least 90 days after the certification. If the petition affects multiple counties and a majority of electors voting on the petition vote in favor of it, the

² R.C. 3311.242, repealed and Sections 6, 7, and 8 of S.B. 89 of the 133rd General Assembly, repealed.

³ *Plain Local Sch. Dist. Bd. of Educ. v. DeWine*, 2020 U.S. Dist. LEXIS 170858, 2020 WL 5521310. See also Ohio Constitution, Article II, Section 15(D).

⁴ R.C. 3311.242(A) and (B), in the bill.

⁵ R.C. 3311.242(C), in the bill.

⁶ R.C. 3311.242(B), in the bill.

board of elections of the most populous county must certify that to the State Board of Education.⁷

If approved by the voters, the district board losing territory must notify the State Board of the election results. Also, the board of township trustees or council of the city, or village must enter into negotiations with the district board gaining territory regarding terms of the transfer. The district board gaining territory must file with the State Board the proposal and a copy of any formal agreement based on the negotiations. The bill specifies that the district board does not have to enter into an agreement. However, it is unclear whether the transfer may proceed without an agreement.⁸

The State Board must approve the filed proposal and provide written notification of that approval to both affected districts. The bill does not appear to give the State Board the discretion to reject the proposal.⁹

The district board gaining territory, upon receiving notification of the State Board's approval, must file a map showing the boundaries of the territory being transferred with the county auditor. Additionally, both district boards affected by the territory transfer, as well as the board of trustees or council of the township, city, or village, must execute an equitable distribution of funds and indebtedness between the districts. After the execution of an equitable distribution of funds and indebtedness, the transfer is complete and the legal title of school property in the territory must be vested in the district board gaining territory.¹⁰

HISTORY

Action	Date
Introduced	02-16-21

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⁷ R.C. 3311.242(D), in the bill.

⁸ R.C. 3311.242(E) and (F), in the bill.

⁹ R.C. 3311.242(G), in the bill.

¹⁰ R.C. 3311.242(H), in the bill.