

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2005

HOUSE BILL No. 2252

By Representative Otto

2-2

~~AN ACT relating to school districts, concerning the changing of member district boundaries, amending K.S.A. 72-6769 and repealing the existing section.~~

[AN ACT concerning school districts; relating to the election of the governing body thereof; amending K.S.A. 25-2017a, 25-2022, 25-2023, 72-6769, 72-7902 and 72-8706 and K.S.A. 2004 Supp. 72-8116, 72-8118a, 72-8125, 72-8145, 72-8202a and 72-8205 and repealing the existing sections.]

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 72-6769 is hereby amended to read as follows: 72-6769. (a) ~~The board of education of any school district may~~ **(1) Except as provided by paragraph (3), the board of education of any school district shall** change the boundaries of board member districts, ~~if any,~~ within the school district, ~~including any territory added thereto~~ **at any time the board determines such change is necessary.** The board is directed to make any appropriate changes in the **board** member districts of the school district by resolution ~~duly adopted at a meeting of the board in the month of October next preceding every regular election of board members of the school district. The board shall prescribe member districts that are as compact and equal in population as possible. Such member districts shall be composed, to the extent practical, of whole voting precincts. Upon a finding by the board that whole voting precincts cannot be used, whole census blocks shall be used to create member districts. The board shall draw boundaries of board member districts that are as compact and equal in population as possible. The boundaries of board member districts shall be drawn, to the extent practical, to include whole voting precincts. Upon a finding by the board that whole voting precincts cannot be included, boundaries shall be drawn to include whole census blocks.~~

(2) If the population of any board member district is at least 5% above or 5% below the mean population of all board member

1 *districts within the school district, based upon the most recently*
2 *published federal decennial census or upon population estimates as*
3 *determined by the county election officer of the home county of the*
4 *school district, the board of education of such school district shall*
5 *change the boundaries of the board member districts so that the*
6 *population of any board member district is not greater than 5%*
7 *above nor greater than 5% below the mean population of all board*
8 *member districts within the school district. If the board does not*
9 *change the boundaries as required by this paragraph, the county*
10 *or district attorney of the home county of the school district shall*
11 *notify the board of its duty to make such changes. If within 60 days*
12 *after receiving such notification, the board fails to change the*
13 *boundaries as required by this paragraph, the county or district*
14 *attorney shall file an action in the district court of such county*
15 *requesting an order to compel the school board to change the board*
16 *member district boundaries as required by this paragraph.*

17 (3) *No boundary changes shall be made during the ninety-day*
18 *period preceding any regular election of the school district.*

19 (b) Such resolution shall be published one time in a newspaper having
20 general circulation in the district, and such publication shall be made
21 within two weeks after the adoption of such resolution. No action shall
22 be brought in any court to contest the location of the boundaries of any
23 member district except within 60 days immediately following the publi-
24 cation of such resolution. Any such action shall be filed in the name of
25 the state by a county or district attorney or the attorney general in a
26 district court of competent jurisdiction. Such a court is authorized to
27 advance any such action on its docket for early determination to facilitate
28 the conduct of elections to be held in the unified district. ~~Commencing~~
29 ~~after October, 2006, whenever member districts vary in population by~~
30 ~~over 5%, as determined by the most recently published federal decennial~~
31 ~~census, it shall be the duty of the county or district attorney of the county~~
32 ~~in which the majority of the school district territory is located to com-~~
33 ~~mence a civil action in the district court for an order requiring the school~~
34 ~~board to change member district boundaries so that they are as equal in~~
35 ~~population as possible.~~

36 (c) Amendments to **board** member district boundaries may be made
37 to correct errors therein or to make the territory thereof more practicable.
38 In the event of transfer of any territory into a school district, such territory
39 shall be assigned to one or more **board** member districts, if any, by the
40 board of education by resolution duly adopted no later than 60 days prior
41 to any regular election in the school district. In the event of transfer of
42 any territory out of the school district, **board** member districts shall be
43 adjusted, if needed, by the board by resolution duly adopted no later than

1 60 days prior to any regular election in the school district.

2 (d) Whenever the boundaries of any **board** member district are
3 changed, the board of education shall immediately notify, in writing, the
4 county election officer of the home county of the school district. Such
5 notice shall describe the boundaries as changed.

6 ~~Sec. 2. K.S.A. 72-6769 is hereby repealed.~~

7 ***[Sec. 2. K.S.A. 25-2017a is hereby amended to read as follows:***
8 ***25-2017a. The clerk of the board of education of every school dis-***
9 ***trict shall certify to the county election officer of the home county***
10 ***of the school district a list of all school offices to be voted upon at***
11 ***each school election, any boundary changes of member districts***
12 ***since the last preceding election and the voting plan to be used as***
13 ***defined in K.S.A. 25-2005 not later than January ± 5 of each odd-***
14 ***numbered year. A copy of the above information shall be furnished***
15 ***to the county election officer of every county in which a part of the***
16 ***territory of the school district is located.***

17 ***[Sec. 3. K.S.A. 25-2022 is hereby amended to read as follows:***
18 ***25-2022. Any board shall have power to fill by appointment any***
19 ***vacancy which occurs thereon, and such appointee shall serve for***
20 ***the unexpired term. When a vacancy occurs, the board shall publish***
21 ***a notice one time in a newspaper having general circulation in the***
22 ***school district stating that the vacancy has occurred and that it will***
23 ***be filled by appointment by the board not sooner than fifteen (15)***
24 ***15 days after such publication. If such vacancy occurs before Jan-***
25 ***uary 1 of an odd-numbered year leaving an unexpired term of more***
26 ***than two years such appointee shall serve until the July 1 after the***
27 ***following first meeting of the board of education following certification of***
28 ***the general school election as provided in K.S.A. 25-2023 or any***
29 ***amendments thereto.***

30 ***[In the latter event, the unexpired term of two years commencing***
31 ***July 1 after the to commence with and include the first meeting of the***
32 ***board of education following general school election shall be filled at***
33 ***such election and the ballots or ballot labels and returns of election***
34 ***with respect to such office shall be designated as follows: “To fill***
35 ***the unexpired term.”***

36 ***[Sec. 4. K.S.A. 25-2023 is hereby amended to read as follows:***
37 ***25-2023. (a) Each board member shall qualify by filing an oath of***
38 ***office with the election officer not later than ten (10) 10 days follow-***
39 ***ing the date of the election, or not later than five (5) days after***
40 ***issuance of such member’s certificate of election, whichever is the***
41 ***later date. Each board member shall take office on the July 1 following***
42 ***the general school election. Except as provided in this section, each mem-***
43 ***ber elected to a board of education shall hold office until a successor***

1 **is elected or appointed and qualified and shall serve for a term of**
2 **four (4) years.** The term of office of each board member shall commence
3 with and include the first meeting of the board of education following
4 certification of the general school election.

5 [(b) Each board member holding office on the effective date of this
6 act shall not serve a full term of four years but shall hold office until the
7 first meeting of the board of education following certification of the gen-
8 eral school election occurring in the fourth year of the term of office for
9 which elected, or as soon thereafter as a successor is elected or appointed
10 and qualifies.

11 [(c) Except as otherwise provided in subsection (b), on and after the
12 effective date of this act any reference in the laws of this state which
13 pertains to the commencement and duration of terms of office of members
14 of boards of education shall be considered to be a reference to the date of
15 commencement and the duration of terms of office prescribed in subsec-
16 tion (a).

17 [Sec. 5. K.S.A. 72-7902 is hereby amended to read as follows:
18 72-7902. The provisions of law relating to the term of office of mem-
19 bers of boards of education, including method and time of qualifi-
20 cation and of taking office shall apply to every school district in
21 this state. In the event no candidate is elected to a position on the
22 board of education of a school district in a regular election, or if an
23 elected member moves out of the school district after such member
24 is elected and before such member takes office ~~the following July 1,~~
25 or if such member becomes ineligible to serve for any other reason
26 during that period of time, the holdover member shall continue to
27 sit as a voting member of the board of education of such school
28 district until an eligible successor is appointed by the board of edu-
29 cation to fill the position. Such successor shall be appointed not later than
30 November 15 next following the regular election of board members in
31 accordance with K.S.A. 25-2022, and amendments thereto.

32 [Sec. 6. K.S.A. 2004 Supp. 72-8202a is hereby amended to read
33 as follows: 72-8202a. (a) At the first meeting of the board of edu-
34 cation in ~~July~~ April of each year, the board shall elect a president
35 and vice-president, both of whom shall be members of the board.
36 The president and vice-president shall each serve for a term of one
37 ~~(1)~~ year and until his successor is elected and qualified.

38 [(b) The president shall preside at meetings of the board and
39 perform such other duties as are provided by law.

40 [(c) In the absence or inability to act of the president, the vice-
41 president shall perform the duties of the president. In the absence
42 or inability to act of both the president and vice-president, the re-
43 maining members shall select a member to act in the capacity of

1 *president.*

2 *[Sec. 7. K.S.A. 2004 Supp. 72-8205 is hereby amended to read*
3 *as follows: 72-8205. (a) The board shall meet at least once each*
4 *month. During the month of ~~July~~ April of each year, the board shall*
5 *adopt a resolution specifying a regular meeting time of the board*
6 *and the regular hour of commencement of the meeting, as well as*
7 *the day of the week and the week of the month. Such resolution also*
8 *shall specify the alternative date and time of any meeting if the*
9 *regular meeting date occurs on a Sunday or on a legal holiday or*
10 *on a holiday specified by the board. Such resolution also shall spec-*
11 *ify the regular meeting place of the board and may specify that any*
12 *regular meeting may be adjourned to another time and place. If the*
13 *board cancels a regularly-scheduled meeting because of an emer-*
14 *gency, within 24 hours of such cancellation, the board shall estab-*
15 *lish and give notice of the new meeting date and time. Special meet-*
16 *ings may be called at any time by the president of the board or by*
17 *joint action of any three members of the board. Unless waived, writ-*
18 *ten notice, stating the time and place of any special meeting and the*
19 *purpose for which called shall be given each member of the board*
20 *at least two days in advance of the special meeting and no business*
21 *other than that stated in the notice shall be transacted at such meet-*
22 *ing. A majority of the full membership of the board shall constitute*
23 *a quorum for the purpose of conducting any business of the school*
24 *district, and the vote of a majority of the full membership of the*
25 *board shall be required for the passage of any motion or resolution.*
26 *Any member who abstains from voting shall be counted as having*
27 *voted against the motion or resolution. If a member announces a*
28 *conflict of interest with regard to the issue, the member may leave*
29 *the meeting until the voting on the issue is concluded and the mem-*
30 *ber who abstains from voting thereby shall not be counted as having*
31 *voted.*

32 *[(b) Except as otherwise provided by law, the board shall have*
33 *and may exercise the same powers and authorities as were imme-*
34 *diately prior to this act conferred uniformly upon boards of edu-*
35 *cation in cities of the first class, and, in addition thereto, the powers*
36 *and authority expressly conferred by law.*

37 *[(c) The board shall have authority to prescribe courses of*
38 *study for each year of the school program and to adopt rules and*
39 *regulations for teaching in the school district and general govern-*
40 *ment thereof, and to approve and adopt suitable textbooks and*
41 *study material for use therein subject to the plans, methods, rules*
42 *and regulations of the state board of education.*

43 *[(d) The board may provide legal counsel at district expense to*

1 *any members of the board of education, or school district officers*
2 *or employees who are sued in situations relating to and arising out*
3 *of the performance of their office or employment. No teacher or*
4 *other employment contract shall make reference to or incorporate*
5 *the provisions of this subsection, nor shall the provisions of this*
6 *subsection be construed as any part of the consideration of employ-*
7 *ment of any teacher, officer or other employee of the board.*

8 *[(e) (1) The board may transact all school district business and*
9 *adopt policies that the board deems appropriate to perform its con-*
10 *stitutional duty to maintain, develop and operate local public*
11 *schools.*

12 *[(2) The power granted by this subsection shall not be con-*
13 *strued to relieve a board from compliance with state law.*

14 *[The power granted by this subsection shall not be construed to*
15 *relieve any other unit of government of its duties and responsibili-*
16 *ties which are prescribed by law, nor to create any responsibility*
17 *on the part of a school district to assume the duties or responsibil-*
18 *ities which are required of another unit of government.*

19 *[(3) The board shall exercise the power granted by this subsec-*
20 *tion by resolution of the board of education.*

21 *[Sec. 8. K.S.A. 72-8706 is hereby amended to read as follows:*
22 *72-8706. If the proposition to consolidate is approved as provided*
23 *in K.S.A. 72-8704, the election of board members at the next follow-*
24 *ing school election shall be by the method of election and voting*
25 *plan provided in the agreement for the consolidated unified school*
26 *district, and at such election seven (7) new board members shall be*
27 *elected. The four (4) candidates receiving the highest number of*
28 *votes at the general school election shall serve as board members*
29 *for four-year terms commencing on the July 1 which shall commence*
30 *with and include the first meeting of the board of education following*
31 *such election and the three (3) candidates receiving the next highest*
32 *number of votes shall serve for two-year terms commencing on the*
33 *July 1 which shall commence with and include the first meeting of the*
34 *board of education following such election, except where a member-*
35 *district method of election is in effect in which case persons elected*
36 *to even-numbered board member positions shall serve for two-year*
37 *terms commencing on the July 1 which shall commence with and include*
38 *the first meeting of the board of education following such election and*
39 *persons elected to odd-numbered member positions shall serve for*
40 *four-year terms commencing on the July 1 which shall commence with*
41 *and include the first meeting of the board of education following such*
42 *election. Thereafter at school elections in odd-numbered years*
43 *board members shall be elected to serve for four-year terms which*

1 *shall commence with and include the first meeting of the board of*
2 *education.*

3 ***[Sec. 9. K.S.A. 25-2017a, 25-2022, 25-2023, 72-6769, 72-7902***
4 ***and 72-8706 and K.S.A. 2004 Supp. 72-8116, 72-8118a, 72-8125,***
5 ***72-8145, 72-8202a and 72-8205 are hereby repealed.]***

6 Sec. 9 ***[10]***. This act shall take effect and be in force from and after
7 its publication in the statute book.