

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

947R0630

HOUSE ENGROSSED NO. **HB 1188** - 2/18/2010

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Rave, Brunner, Fargen, Hamiel, Lederman, Moser, Sly, Sorenson, and Van Gerpen and Senators Olson (Russell) and Rhoden

1 FOR AN ACT ENTITLED, An Act to restrict the use of minor adjustments to school district
2 boundaries and to revise the application process for minor boundary changes.

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

4 Section 1. That § 13-6-85 be amended to read as follows:

5 13-6-85. A boundary change, affecting not more than two percent of the assessed valuation
6 and not more than two percent of the tax-exempt acreage or other tax-exempt property to be
7 determined at the discretion of the school district from which the area is to be taken, may be
8 made upon an application for a boundary change to the school board of the school district from
9 which the area is to be taken and to the school board of the school district to which the area is
10 to be annexed; The area to be annexed shall include at least five residential units and children
11 residing in the area or consist solely of land containing no residential units. If the area includes
12 residential units, the application shall be in the form of a petition signed by at least sixty percent
13 of the owners of land, excluding land owned by the state or any other political subdivision in
14 the area to be transferred by the boundary change. If the area consists solely of land containing



1 no residential units, the application shall be in the form of a petition signed by all of the owners
2 of land, excluding land owned by the state or any other political subdivision in the area to be
3 transferred by the boundary change. Copies of the petitions shall also be delivered by the
4 petitioners to the board of county commissioners having jurisdiction over the school districts
5 affected. Any petitioner who is aggrieved by a decision of the school board under this section
6 may appeal that decision.

7 For purposes of this section, a residential unit is an occupied single family dwelling,
8 including a house, condominium apartment, or manufactured home as defined in § 32-3-1, or
9 any multi-unit residential structure in which more than one family unit resides.

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

1 Section 2. That § 13-6-84.1 be amended to read as follows:

2 13-6-84.1. In all proposed changes in school district boundaries, the following conditions
3 shall prevail:

4 ~~—(1)—~~ The boundary of the area proposed to be transferred shall be coterminous at some
5 point with the common boundary of the two school districts. Land owned by the
6 federal, state, or local governments and unoccupied land may be included in the
7 request;

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