**5731 AMH ED H2699.1 - NOT FOR FLOOR USE**

**SB 5731** - H COMM AMD

By Committee on Education

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 28A.315 RCW to read as follows:

(1) If the affected school districts dismiss a proposed transfer of territory initiated by a citizen petition under RCW 28A.315.199, the petitioner may request that the school districts appoint a mediator to attempt to reach agreement between the school districts and the petitioner on the proposal. The appointment of a mediator under this section must be approved by the school districts and the petitioner. Upon appointment, the mediator has thirty days to work with the school districts and the petitioner to attempt to reach an agreement on the proposal.

(2) If the school districts do not appoint a mediator that is approved by the districts and the petitioner within thirty days of the request by the petitioner, or if the mediator was unable to bring the districts and the petitioner to agreement, the petitioner may, in accordance with RCW 28A.315.199(5), file a written request for a hearing by a regional committee.

**Sec.**  RCW 28A.315.199 and 2012 c 186 s 5 are each amended to read as follows:

(1) Upon receipt of a petition to transfer territory pursuant to RCW 28A.315.195 or to dissolve a financially insolvent school district pursuant to RCW 28A.315.225, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory or dissolution, must enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory or to agree on the annexation of a financially insolvent district;

(d) Districts negotiating an agreement regarding annexation of a dissolving financially insolvent district may not agree to not dissolve a financially insolvent district;

(e) The agreement between at least one contiguous district and a financially insolvent district regarding the annexation of the dissolving district and the distribution of assets and liabilities is subject to approval by the financial oversight committee;

(f) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(g) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(2) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(3) If the affected school districts cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, any affected district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(4) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside must file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(5) If the affected school districts agree to dismiss a proposed transfer of territory initiated by citizen petition, a petitioner may, in accordance with section 1(2) of this act, file with the educational service district superintendent a written request for a hearing by the regional committee. The request for a hearing must be filed no later than sixty days after the appointment of a mediator under section 1 of this act or, if no mediator is appointed, within sixty days of the request by the petitioner to appoint a mediator.

(6) Upon receipt of a notice under subsection (3) ((~~or~~)), (4), or (5) of this section, the educational service district superintendent must notify the chair of the regional committee in writing within ten days.

((~~(6)~~)) (7) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

**Sec.**  RCW 28A.315.205 and 2012 c 186 s 6 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory or dissolution petition at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.199 (3) ((~~or~~)), (4), or (5).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory or the dissolution and annexation of a financially insolvent district. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the superintendent of public instruction under chapter 34.05 RCW.

(4) The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a)(ii) of this subsection.

(ii) If the administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, the administrative law judge shall refer the matter back to the regional committee with an explanation of his or her findings. The regional committee shall rehear the proposal.

(iii) If the administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(iv) The administrative law judge shall expedite review and issuance of a decision on an appeal of a decision approving the dissolution and annexation of a financially insolvent district.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570. Judicial review of a regional committee decision approving dissolution and annexation of a financially insolvent district must be expedited.

NEW SECTION. **Sec.**  This act applies retroactively to all territory transfer proposals that were initiated by a citizen petition under RCW 28A.315.199 and were dismissed by the affected school districts on or after January 1, 2018."

Correct the title.

EFFECT: (1) Allows a citizen petitioner whose petition for a proposed transfer of school district territory that was dismissed by the affected school districts to request that the districts appoint a mediator to attempt to reach agreement between the districts and the petitioner on the proposal.

(2) Allows a citizen petitioner to file a request for a hearing on a proposal with the applicable regional committee if the districts do not appoint a mediator that is approved by the districts and the petitioner, or if the mediator's attempts to reach agreement were unsuccessful.

(3) Establishes time limits for the filing of a request for a hearing with the applicable regional committee.

(4) Modifies the retroactivity provisions in the underlying bill to specify that the dismissed proposals referenced in the provisions are those dismissed by school districts.