

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **SCHOOL DISTRICTS - MONTANA**

### **Poplar Elementary School District No. 9, v. Froid Elementary School District No. 65**

**Supreme Court of Montana - August 25, 2020 - P.3d - 2020 WL 5014937 - 2020 MT 216**

Elementary school district appealed a decision of the deputy county superintendent of schools approving a transfer of territory from district to a neighboring elementary school district.

The District Court vacated the decision. Receiving district appealed, and the Supreme Court reversed and remanded. After a new transfer petition was filed, transferring district appealed the decision of the acting county superintendent of schools approving the transfer. The District Court affirmed the decision. Transferring district appealed, and Attorney General intervened to defend the constitutionality of the territory transfer statute.

The Supreme Court held that:

- Acting superintendent did not abuse her discretion in concluding that proposed transfer would result in a negligible increase in the tax burden on transferring district;
- Acting superintendent did not abuse her discretion in concluding that proposed transfer would improve the safety of student transportation;
- Collateral estoppel barred relitigation of the issue of territory transfer statute's facial validity; and
- Doctrine of res judicata also barred relitigation of the issue.

Sufficient evidence supported finding by acting county superintendent of schools that transfer of territory from elementary school district to neighboring district would reduce the transferring district's bonding capacity by 15.47%, as factor relevant to the determination of whether to approve the transfer; though bonding capacity relating only to the elementary school district would be reduced by 27% as a result of the transfer, including the transferring district's high school district would result in the lower figure, and there was testimony that transferring district had no bonded debt and could therefore bond 100% of its bonding capacity.

Acting county superintendent of schools did not abuse her discretion in concluding that proposed transfer of territory from elementary school district to neighboring district would result in a negligible increase in the tax burden on transferring district, as factor supporting approval of the transfer; superintendent of receiving district testified, based on 20 pages of data compiled from Office of Public Instruction, that transfer would add \$24.29 of additional taxation per year to a house valued at \$100,000, with correspondingly higher and lower impacts on more and less valuable houses, and there was no evidence to support the testimony of transferring district's superintendent and chair of transferring district's school board that even that level of increase would be burdensome.

Acting county superintendent of schools could consider, in deciding whether to approve transfer of territory from elementary school district to neighboring district, the availability of federal funding to make up for any decrease in tax revenue suffered by transferring district; though statute governing

territory transfer did not list federal funding as a factor to consider, it also did not limit consideration to the listed criteria.

Acting county superintendent of schools did not abuse her discretion in concluding that proposed transfer of territory from elementary school district to neighboring district would improve the safety of student transportation; receiving district was already providing transportation services to the transfer territory, as nine of the 11 elementary school students in the transfer territory attended school in the receiving district, and its school was closer to the transfer territory than was school in the transferring district.

Issue of the facial validity of statute governing transfer of territory between school districts, as raised in elementary school district's appeal from the approval of transfer petition, was identical to issue raised in prior appeal from approval of a prior petition to transfer the same territory, as element supporting application of collateral estoppel to bar relitigation of the issue; both appeals involved identical circumstances, namely district's opposition to neighboring district's petitions to acquire the same territory, and in both appeals district argued that statute was unconstitutionally vague because it did not provide reasonably clear and definite standards, objective criteria, and ascertainable limits to guide county superintendent of schools in making the transfer decision.

Appeal from the approval of a prior petition to transfer territory from elementary school district to neighboring district resulted in a final judgment on the merits of transferring district's challenge to the facial validity of the territory transfer statute, as element supporting application of collateral estoppel to bar relitigation of the issue on appeal from the approval of a subsequent petition to transfer the same territory; judge in prior appeal rejected the facial challenge based on briefing by the parties and a summary judgment hearing, and devoted seven pages of his order to addressing the constitutionality of the statute, and transferring district had an opportunity to appeal the decision upholding the statute but declined to do so.

Doctrine of res judicata barred elementary school district from relitigating, in its appeal from the approval of a petition to transfer territory to neighboring district, the facial validity of the territory transfer statute; transferring and receiving districts were both parties to prior litigation arising out of an earlier transfer petition, issues in the two actions were the same and related to the same territory, and judge in prior action awarded final summary judgment to receiving district on the issue of whether the statute was unconstitutionally vague, upholding the validity of the statute.

Statute governing transfer of territory between school districts was not unconstitutional as applied to elementary school district from which certain territory was transferred; as a political subdivision of the state, district had no due process rights that could be violated by trial court's reliance on the fact that tax-exempt tribal lands made up the transfer territory and that district received significant federal funding to mitigate the effect of the transfer.