

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 1898

6
7 H. P. 1912 House of Representatives, January 28, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

8 Referred to the Committee on Education. Sent up for concurrence
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Locke of Sebec.

9
10 **STATE OF MAINE**
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 **AN ACT Governing the Closing of Public**
16 **Elementary and Secondary School Buildings.**
17

18 Be it enacted by the People of the State of Maine as follows:

19 **Sec. 1.** 20 MRSA §225, first ¶, as amended by PL 1981,
20 c. 464, §4, is further amended to read:

21 When it is necessary to hold a district meeting to
22 approve the issuance of bonds or notes for school construction
23 projects as defined in section 3471, to approve a
24 change in the selection of a school building site, to
25 approve a change in the method of sharing costs among the
26 member municipalities, to approve an agreement to add
27 another municipality or municipalities to the School Admin-
28 istrative District, to approve an agreement to transfer a
29 participating municipality to another School Administrative
30 District, to approve an agreement to merge with another
31 School Administrative District, or to approve a proposed
32 lease agreement with the Maine School Building Authority, or
33 to authorize the school directors to contract for the
34 schooling of secondary pupils, or to authorize the school

1 directors to dispose of real property, or to accept or
2 reject a prospective gift, the school directors shall be
3 authorized to call such meeting as follows.

4 Sec. 2. 20 MRSA §225, sub-§3, ¶E is repealed.

5 Sec. 3. 20 MRSA §306, first ¶, 3rd sentence, as
6 enacted by PL 1975, c. 510, §12, is repealed.

7 Sec. 4. 20 MRSA §306, 2nd ¶, as last amended by PL
8 1967, c. 425, §6-B, is repealed.

9 Sec. 5. 20 MRSA §307, as amended by PL 1971, c. 530,
10 §8, is repealed.

11 Sec. 6. 20 MRSA c. 502-B is enacted to read:

12 CHAPTER 502-B
13 CLOSING AND DISPOSITION OF PUBLIC
14 ELEMENTARY AND SECONDARY SCHOOL BUILDINGS

15 §3491. Definitions

16 For the purposes of this chapter, unless the context
17 indicates otherwise, the following terms have the following
18 meanings.

19 1. School board. "School board" includes boards of
20 directors within School Administrative Districts, school
21 committees within other types of school administrative units
22 and cooperative boards within vocational regions.

23 2. School building. "School building" means, but is
24 not limited to, any structure used or useful for schools and
25 playgrounds, including facilities for physical education.

26 3. School year. "School year" is the fiscal year com-
27 mencing on July 1st and ending on June 30th.

28 §3492. Closing of a school building

29 The closing of a school building by a school adminis-
30 trative unit may only occur under the following conditions.

31 1. Replaced by new building. The school building has
32 been replaced by other school buildings as part of a school
33 construction project which has been approved by the State
34 Board of Education in accordance with the provisions of
35 chapter 502.

1 2. Condemned. The school building has been condemned
2 and ordered closed by local or state officials for health
3 and safety reasons.

4 3. Lack of need. The building has been deemed to be
5 unnecessary or unprofitable to maintain by the governing
6 body of the administrative unit. The closing under this
7 subsection shall be subject to the approval of the commis-
8 sioner in accordance with rules adopted by the commissioner.
9 The rules shall require the presentation of a proposal to
10 the commissioner for the closing of the building which shall
11 include, but not be limited to, the following criteria:

12 A. Projection of the number of students in the
13 affected area over the next 5 school years including a
14 projection of the educational programs which they will
15 need;

16 B. Manner in which the continuation of the educational
17 programs for the affected students will be provided;

18 C. Effective date on which the closing will take
19 place;

20 D. Projection of additional transportation or other
21 related services;

22 E. Existence of any other outstanding financial com-
23 mitments, including debt service, related to the school
24 building along with a retirement schedule of payments
25 to meet the commitments;

26 F. Proposed disposition of the school building;

27 G. Financial impact of closing the school building;
28 and

29 H. Statement of reasons why the school building is
30 being closed.

31 4. Voter approval. If the school board acts to close
32 a school building pursuant to subsection 3, then the voters
33 of a member town within a School Administrative District or
34 a community school district may appeal the closing in accor-
35 dance with the provisions set forth in section 222-E. In a
36 municipality which is not part of a School Administrative
37 District or a community school district, the school board,
38 in conjunction with the municipal officers, shall call and
39 hold a special referendum on the question of whether the
40 school building should be closed if the school board is pre-

1 sented with a written petition by 10% of the number of
2 voters in the municipality who voted at the last gubernato-
3 rial election.

4 §3493. Disposal or other use of real property closed for
5 school purposes

6 The following shall control the disposition or other
7 use of school buildings which have been closed pursuant to
8 section 3492.

9 1. Control. The school building shall remain under
10 the control of the school board.

11 2. Lease, use of proceeds. The school board may lease
12 the building for its fair rental value if there is a reason-
13 able likelihood that the building will be needed again for
14 educational purposes within the next 5 school years.

15 A. The fair rental value of the building and the eli-
16 gibility of potential lessees shall be established in
17 accordance with rules adopted by the commissioner,
18 which shall include the following criteria:

19 (1) Provisions to assure that the lease of the
20 building will not unduly compete with the private
21 sector; and

22 (2) Requirement that the building be leased to
23 organizations or individuals whose goals and
24 objectives are oriented to the social needs of the
25 municipality or the administrative unit in which
26 the building is located.

27 B. The proceeds from the lease shall be used in the
28 following order:

29 (1) To cover the maintenance costs on the build-
30 ing;

31 (2) To reduce any outstanding indebtedness on the
32 building; and

33 (3) To meet educational expenses which have been
34 approved by the legislative body of the adminis-
35 trative unit in the ordinary budgetary process.

36 C. Any renovations to a leased building must be com-
37 patible with its reuse as a school building.

1 3. Transfer to municipality. The school board may
2 transfer control or ownership, or both, of the building
3 which does not have any anticipated use as a school building
4 to the municipal officers or inhabitants of the town or
5 towns.

6 A. The receiving town or towns, if they accept the
7 transfer, shall be liable for any outstanding indebted-
8 ness.

9 B. If the receiving town or towns are part of a School
10 Administrative District or a community school district,
11 then the receiving town or towns shall pay the district
12 any debt service which was expended by the district
13 over the 5 school years prior to the transfer of the
14 building to the town or towns minus their apportionment
15 of that debt service.

16 4. Sale of school building. The school board of the
17 school administrative unit may sell the school building on
18 the open market if it determines that it will have no future
19 use for the building and the municipal officers of the town
20 or towns in which the building is located do not request
21 that control or ownership be transferred to the municipal
22 officers or the inhabitants of the town or towns. If the
23 school board is unable to sell the school building on the
24 open market after a reasonable period of time, not to exceed
25 2 years, then it may attempt to sell the building through
26 sealed bids.

27 A. The value of the building to be sold on the open
28 market shall be determined in accordance with rules
29 adopted by the commissioner.

30 B. The process for the solicitation of sealed bids
31 shall be in accordance with rules adopted by the com-
32 missioner.

33 C. The proceeds from the sale of the building shall be
34 disbursed in accordance with section 3494.

35 D. The school board of a school administrative unit is
36 authorized to convey title to any and all school build-
37 ings regardless of whether they are held in the names
38 of the inhabitants of a municipality, School Adminis-
39 trative District, community school district or voca-
40 tional region.

41 5. Demolition of building. The school board may
42 demolish a building on the site and retain the site if the

1 property could be used for other educationally related pur-
2 poses without the building. The school board may also
3 demolish the building if it has been condemned by local or
4 state officials for health and safety reasons regardless of
5 whether the site will be retained or sold.

6 §3494. Proceeds from sale of school building

7 The proceeds from the sale of school buildings, which
8 were not transferred pursuant to section 3493, subsection 3,
9 shall be utilized in the following manner.

10 1. General. If the school building was built by the
11 administrative unit, then the proceeds shall be used solely
12 for educational purposes as approved by the unit's legis-
13 lative body in the normal budgetary approval process.

14 2. School Administrative District and community school
15 district. If the building was transferred by a member town
16 to a School Administrative District or a community school
17 district, then the proceeds of the sale, minus any expenses
18 related to the sale or any outstanding indebtedness, shall
19 be credited to the town in which the facility is located and
20 shall be used to offset the town's share of the educational
21 expenses for the district in the school year immediately
22 following the sale of the building.

23 3. Outstanding indebtedness. If a building has out-
24 standing indebtedness, then the proceeds of its sale shall
25 be used to retire the unit's debt service on the building
26 and the balance of the proceeds shall be placed in a sinking
27 fund to reduce future debt service payments in accordance
28 with rules adopted by the commissioner. Any balance of the
29 proceeds after the debt has been retired may be used in ac-
30 cordance with the conditions set forth in subsections 1 and
31 2.

32 4. Part of school construction project. If the school
33 building has been replaced by a new building as part of a
34 school construction project, then the proceeds from the sale
35 or lease of the building shall be used to retire the debt
36 service on the new building, unless the property has been
37 transferred pursuant to subsection 2.

38 Sec. 7. 20 MRSA §3561, first 3 sentences, as amended
39 by PL 1967, c. 425, §19, are repealed.

40 Sec. 8. 20 MRSA §3562-C, as repealed and replaced by
41 PL 1979, c. 541, Pt. B, §26, is repealed.

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STATEMENT OF FACT

This bill would govern the closing of public elementary and secondary school buildings, the control of those buildings, the disposition of those buildings and the use of the proceeds from the sale of closed school buildings.

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