

MAINE STATE LEGISLATURE

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1 (Emergency)
2 (New Draft of H.P. 1912, L.D. 1898)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TENTH LEGISLATURE
6

7 **Legislative Document**

No. 2135

9
10 H. P. 2302 House of Representatives, April 1, 1982
Reported by Representative Murphy from the Committee on Edu-
cation and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-TWO
16

17 **AN ACT Governing the Closing of Public**
18 **Elementary and Secondary School Buildings.**
19

20 **Emergency preamble.** Whereas, Acts of the Legislature
21 do not become effective until 90 days after adjournment
22 unless enacted as emergencies; and

23 Whereas, there is a need for districts to determine the
24 receipts from the disposal of buildings before voting on the
25 budget for the next fiscal year beginning July 1, 1982; and

26 Whereas, there is a need for other districts to have
27 the ability to transfer buildings to the municipality in
28 order to apply for federal block grants; and

29 Whereas, in the judgment of the Legislature these facts
30 create an emergency within the meaning of the Constitution
31 of Maine and require the following legislation as immedi-
32 ately necessary for the preservation of the public peace,
33 health and safety; now, therefore,

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

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

4 When it is necessary to hold a district meeting to
5 approve the issuance of bonds or notes for school construc-
6 tion projects as defined in section 3471, to approve a
7 change in the selection of a school building site, to
8 approve a change in the method of sharing costs among the
9 member municipalities, to approve an agreement to add
10 another municipality or municipalities to the School Admin-
11 istrative District, to approve an agreement to transfer a
12 participating municipality to another School Administrative
13 District, to approve an agreement to merge with another
14 School Administrative District, or to approve a proposed
15 lease agreement with the Maine School Building Authority, or
16 to authorize the school directors to contract for the
17 schooling of secondary pupils, ~~or to authorize the school~~
18 ~~directors to dispose of real property,~~ or to accept or
19 reject a prospective gift, the school directors shall be
20 authorized to call such meeting as follows.

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

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

24 Sec. 4. 20 MRSA §306, 2nd ¶, as last amended by PL
25 1967, c. 425, §6-B, is repealed.

26 Sec. 5. 20 MRSA §307, as amended by PL 1971, c. 530,
27 §8, is repealed.

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

29 CHAPTER 502-B

30 CLOSING AND DISPOSITION OF PUBLIC

31 ELEMENTARY AND SECONDARY SCHOOL BUILDINGS

32 §3491. Definitions

33 For the purposes of this chapter, unless the context
34 indicates otherwise, the following terms have the following
35 meanings.

36 1. School board. "School board" includes boards of
37 directors within School Administrative Districts, school

1 committees within other types of school administrative units
2 and cooperative boards within vocational regions. It shall
3 also include trustees of special school districts, as de-
4 defined in section 4754.

5 2. School building. "School building" means, but is
6 not limited to, any real property or structure used or
7 useful for schools and playgrounds, including facilities for
8 physical education.

9 3. School year. "School year" is the fiscal year com-
10 encing on July 1st and ending on June 30th.

11 §3492. Closing of a school building

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

14 1. Replaced by new building. The school building has
15 been replaced by other school buildings as part of a school
16 construction project which has been approved by the State
17 Board of Education in accordance with chapter 502.

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

21 3. Lack of need. The building has been deemed to be
22 unnecessary or unprofitable to maintain by the governing
23 body of the administrative unit. Before a building may be
24 closed under this subsection, a report shall be filed with
25 the commissioner. The report shall contain, at a minimum,
26 the following:

27 A. Projection of the number of students in the
28 affected area over the next 5 school years including a
29 projection of the educational programs which they will
30 need;

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

33 C. Effective date on which the closing will take
34 place;

35 D. Projection of additional transportation or other
36 related services;

37 E. Existence of any other outstanding financial com-
38 mitments, including debt service, related to the school

1 building along with a retirement schedule of payments
2 to meet the commitments;

3 F. Proposed disposition of the school building;

4 G. Financial impact of closing the school building;
5 and

6 H. Statement of reasons why the school building is
7 being closed.

8 4. Voter approval. Before a school board may close a
9 school building pursuant to subsection 3, voter approval
10 shall be obtained as follows.

11 A. Elementary schools in School Administrative Dis-
12 tricts and community school districts may only be
13 closed if approved by the voters in accordance with
14 sections 222-E and 381-A.

15 B. Secondary schools in School Administrative Dis-
16 tricts and community school districts and either ele-
17 mentary or secondary schools in other school adminis-
18 trative units may be closed without voter approval,
19 unless the school board is presented with a written
20 petition, within 30 days of the board's decision to
21 close the school, by 10% of the number of voters in the
22 school administrative unit who voted at the last guber-
23 national election, then a special referendum shall be
24 called pursuant to:

25 (1) Section 225 for School Administrative Dis-
26 tricts;

27 (2) Title 30, sections 2061 to 2065 for community
28 school districts, except the school board shall
29 issue a warrant specifying that the municipalities
30 within the district place the petitioned article
31 on the ballot, and shall prepare and furnish the
32 required number of ballots for carrying out the
33 election; and

34 (3) Titles 21 and 30, respectively, for cities
35 and towns.

36 C. The article to be used shall be substantially in
37 the following form:

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

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

8 B. If the receiving town or towns are part of a School
9 Administrative District or a community school district,
10 then:

11 (1) If the building had been transferred by the
12 town or towns to the district, the district may
13 require the town or towns to pay the district any
14 debt service expended on the building by the dis-
15 trict over the 5 school years prior to the trans-
16 fer of the building to the town or towns, minus
17 their apportionment of that debt service; or

18 (2) If the building had been constructed by the
19 district, the district may require the receiving
20 town or towns to pay the district a sum equal to
21 the fair market value of the building, minus the
22 town or town's apportioned share in the building,
23 to be determined in accordance with the cost
24 sharing formula in effect at the time of the
25 transfer.

26 4. Sale of school building. The school board of the
27 school administrative unit may sell the school building on
28 the open market if it determines that it will have no future
29 use for the building and they have offered to transfer con-
30 trol or ownership to the municipal officers of the town or
31 towns in which the building is located, and the municipal
32 officers have not accepted the transfer of control or owner-
33 ship to the municipal officers or the inhabitants of the
34 town or towns. If the school board is unable to sell the
35 school building on the open market after a reasonable period
36 of time, not to exceed 2 years, then it may attempt to sell
37 the building through sealed bids.

38 A. Sealed bids shall be solicited a minimum of 60 days
39 prior to being opened. Appropriate notices shall be
40 published in local news media.

41 B. The proceeds from the sale of the building shall be
42 disbursed in accordance with section 3494.

1 C. The school board of a school administrative unit
2 may convey title to any and all school buildings,
3 regardless of whether they are held in the names of the
4 inhabitants of a municipality, a School Administrative
5 District, a community school district, a vocational
6 region or a union school.

7 5. Demolition of building. If the school committee or
8 board of directors determines that it has no future use for
9 a building, if it determines the property could be better
10 used for other educationally related purposes without the
11 building and if the legislative body of the unit approves,
12 the school committee or board of directors may demolish the
13 building on the site and retain the site. The school board
14 may also demolish the building if it has been condemned by
15 local or state officials for health and safety reasons,
16 regardless of whether the site will be retained or sold.

17 §3494. Proceeds from sale of school building

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

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

25 2. School Administrative District and community school
26 district. If the building was transferred by a member town
27 to a School Administrative District or a community school
28 district, the proceeds of the sale, minus any expenses
29 related to the sale or any outstanding indebtedness, shall
30 be credited to the town in which the facility is located and
31 shall be used to offset the town's share of the educational
32 expenses for the district. If the school administrative
33 district or the community school district has made major
34 renovations or additions which would meet the definition of
35 a school construction project as set forth in section 3471,
36 the town shall be credited with only those proceeds of the
37 sale which are attributable to the appraised value of the
38 original school building at the time of the sale.

39 3. Outstanding indebtedness. If a building has out-
40 standing indebtedness, then the proceeds of its sale shall
41 be used to retire the unit's debt service on the building
42 and the balance of the proceeds shall be placed in a sinking
43 fund to reduce future debt service payments. Any balance of
44 the proceeds after the debt has been retired may be used in

1 accordance with the conditions set forth in subsections 1
2 and 2.

3 4. Part of school construction project. If the school
4 building has been replaced by a new building as part of a
5 school construction project, the proceeds from the sale or
6 lease of the building shall be used to retire the debt ser-
7 vice on the new building, unless the property has been
8 transferred pursuant to subsection 2.

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

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

13 **Emergency clause.** In view of the emergency cited in
14 the preamble, this Act shall take effect when approved.

15 **STATEMENT OF FACT**

16 This new draft creates uniform criteria for the dis-
17 posal of school buildings. The requirement that a School
18 Administrative District or community school district hold a
19 referendum before an elementary school building is closed is
20 extended to the closing of secondary school buildings and to
21 the closing of schools in municipalities if requested by 10%
22 of the voters of the district. If a building has been
23 closed, the school board may lease, transfer to the munici-
24 pality in which it is located, sell or demolish the build-
25 ing. However, the school board must have the approval of
26 the legislative body of the school unit before it can demol-
27 ish the building and offer the building for transfer to the
28 town in which it is located before it can be sold. The
29 legislative body of a School Administrative District or a
30 community school district is the district meeting and in a
31 municipal school district either the town council, city
32 council or town meeting.

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