

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1104

6
7 H.P. 854

House of Representatives, March 8, 1983

8 Submitted by the Department of Educational and Cultural Services pur-
9 suant to Joint Rule 24.

10 On Motion of Representative Locke of Sebec referred to the Committee
on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Randall of East Machias.

Cosponsor: Representative Locke of Sebec.
11

12 STATE OF MAINE
13

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

17 AN ACT to Amend the Laws Pertaining to
18 Dissolution and Withdrawal from School
19 Administrative Districts and Community
20 School Districts.
21

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

24 Sec. 1. 20-A MRSA §1403, as enacted by PL 1981,
25 c. 693, §§5 and 8, is amended to read:

26 §1403. Dissolution of a district

27 1. Ten percent petition. Upon receipt of a
28 petition ~~of~~ which seeks to dissolve a school adminis-
29 trative district and establishes a maximum figure for
30 the cost of preparing a dissolution agreement signed
31 by 10% the number of voters in a municipality who
32 voted at the last gubernatorial election, the munici-
33 pal officers shall call and hold a special election,

1 in the manner provided for the calling and holding of
2 town meetings or city elections, to vote on the dis-
3 solution of the school administrative district.

4 A. At least 10 days before the election, a
5 posted or otherwise advertised public hearing on
6 the petition shall be held by the municipal offi-
7 cers.

8 B. The petition must be approved by secret bal-
9 lot by a 2/3 vote of the voters present and
10 voting before it may be presented to the board of
11 directors and the state board. Voting in towns
12 shall be conducted in accordance with Title 30,
13 sections 2061 and 2062, even though if the town
14 has towns have not accepted the provisions of
15 Title 30, section 2061, and voting in cities
16 shall be conducted in accordance with Title 21.

17 2. Form. The question to be voted upon shall be
18 in the following form:

19 "Article : Be it resolved by the residents of
20 the Town of that a petition
21 for dissolution be filed with the directors of
22 School Administrative District No. and
23 with the State Board of Education, that the dis-
24 solution committee be authorized to expend the
25 maximum amount of \$ and that the town raise
26 and appropriate the maximum amount of \$ for
27 this purpose?

28 Yes No "

29 3. Notice of vote; finding by board. If resi-
30 dents of a participating municipality vote favorably
31 on a petition for dissolution, the clerk shall
32 immediately give written notices, by registered mail,
33 to the secretary of the school administrative dis-
34 trict, the state board and the commissioner which
35 shall include:

36 A. The petition adopted by the voters, including
37 the positive and negative votes cast; and

38 B. An explanation by the municipal officers,
39 stating to the best of their knowledge, the

1 reason or reasons why the municipality seeks to
2 dissolve the district.

3 4. Agreement for dissolution; notice; changes in
4 agreement; final agreement. The agreement for disso-
5 lution shall comply with the following.

6 A. The commissioner, after consultation with the
7 district board of directors, municipal officers
8 of the participating municipalities, and repre-
9 sentatives of the group which filed the petition
10 with the municipality, shall direct the municipal
11 officers of each municipality to select repre-
12 sentatives to a committee as follows: ~~One school~~
13 ~~director representing the municipality shall be~~
14 ~~selected by the directors representing that~~
15 ~~municipality;~~ One member each from the municipal
16 officers, the group filing the petition; and one
17 member from the general public shall be selected
18 by the municipal officers; and one member from
19 the group filing the petition if the group is
20 represented in the municipality, otherwise an ad-
21 ditional one member of the general public. The
22 commissioner shall also direct the directors
23 representing each municipality to select one
24 member of the board of directors who represents
25 that municipality to serve on the committee. The
26 municipal officer and the member of the board of
27 directors shall serve on the committee only so
28 long as they hold their respective offices.
29 Vacancies will be filled by the municipal offi-
30 cers and board of directors. The chairman of the
31 board of directors shall call a meeting of the
32 committee within 30 days of the filing of the
33 notice of the vote in subsection 3. The chairman
34 of the board shall open the meeting by presiding
35 over the election of a chairman of the committee.
36 The responsibility for the preparation of the
37 agreement shall rest with the committee, subject
38 to the approval of the State Board of Education.
39 The committee may draw upon the resources of the
40 department for information not readily available
41 at the local level and employ competent advisors
42 within the fiscal limit authorized by the voters.
43 The agreement shall be submitted to the state
44 board and the commissioner within 90 days after
45 the committee is formed. Extensions of time may

1 be granted by the commissioner upon the request
2 of the committee.

3 (1) The agreement shall contain provisions
4 to provide educational services for all stu-
5 dents in the district. The agreement shall
6 provide that during the first year following
7 the dissolution, students may attend the
8 school they would have attended if the dis-
9 trict had not dissolved. The allowable
10 tuition rate for students sent from one
11 municipality to another in the former school
12 administrative district shall be determined
13 under section 5805, subsection 1, except
14 that it shall not be subject to the state
15 per pupil average limitation in section
16 5805, subsection 2.

17 (2) The agreement shall establish the dis-
18 solution to take effect at the end of the
19 district's fiscal year.

20 (3) The agreement shall establish that the
21 dissolution will not cause a need within 5
22 years from the effective date of dissolution
23 for school construction projects which would
24 be eligible for state funds. This limita-
25 tion does not apply where a need for school
26 construction existed prior to the effective
27 date of the dissolution or where a need for
28 school construction would have arisen even
29 if the district had not dissolved.

30 (4) The agreement shall establish how
31 transportation services will be provided.

32 (5) The agreement shall provide for admin-
33 istration of the new administrative units,
34 which should not include the creation of new
35 supervisory units if at all possible.

36 (6) The agreement shall make provision for
37 the distribution of financial commitments
38 arising from outstanding bonds, notes and
39 any other contractual obligations that
40 extend beyond the proposed date of dissolu-
41 tion.

1 (7) The agreement shall make appropriate
2 provision for the distribution of any out-
3 standing financial commitments to the super-
4 intendent of the school administrative dis-
5 trict.

6 (8) The agreement shall provide for the
7 continuation, and assignment of collective
8 bargaining agreements as they apply to the
9 new or reorganized school administrative
10 unit for the duration of those agreements
11 and shall provide for the continuation of
12 representational rights.

13 (9) The agreement shall provide for the
14 continuation of continuing contract rights
15 under section 13201, subsection 2.

16 (10) The agreement shall provide for the
17 disposition of all real and personal prop-
18 erty and other monetary assets.

19 (11) The agreement shall provide for the
20 transition of administration and governance
21 of the schools to properly elected governing
22 bodies of the newly created administrative
23 units and shall provide that the governing
24 bodies shall not be elected simultaneously
25 with the vote on the article to dissolve
26 unless the state board finds there are
27 extenuating circumstances which necessitate
28 simultaneous elections.

29 B. Within 60 days of the receipt of the agree-
30 ment, the state board shall either give it condi-
31 tional ~~acceptance~~ approval or recommend changes
32 with the advice of the commissioner. The changes
33 shall be based upon the standards set forth in
34 paragraph A and the board's findings of whether
35 the contents of the plan will provide for appro-
36 prate educational and related services to the
37 students of the district and for the orderly
38 transition of assets, governance, and other mat-
39 ters related to the district.

40 C. If the state board gives conditional approval
41 of the agreement, the commissioner shall notify

1 the directors and the municipal officers by
2 registered mail of the time and place of a public
3 hearing at least 20 days prior to the date set
4 for the hearing, to discuss the merits of the
5 proposed agreement of dissolution. The chairman
6 of the board of directors will conduct the hear-
7 ing.

8 (1) The directors shall post a public
9 notice in each municipality of the time and
10 location of the hearing at least 10 days
11 before the hearing.

12 (2) Within 30 days following the hearing,
13 the committee shall forward the final agree-
14 ment to the commissioner and the state
15 board.

16 D. If the state board recommends changes it
17 shall:

18 (1) Send the agreement back to the commit-
19 tee for necessary corrections and establish
20 a maximum time within which to make the cor-
21 rections; and

22 (1-A) Establish a maximum time within which
23 to make the corrections; and

24 (2) Indicate that the corrected agreement
25 shall go through the steps outlined in para-
26 graphs A to E, or such other steps as the
27 board deems appropriate be returned to the
28 state board for conditional approval before
29 it goes to public hearing as set forth in
30 paragraph C.

31 5. Date of vote; notice; warrant; polling hours.
32 The date and time for voting shall be established as
33 follows.

34 A. The state board shall determine the date upon
35 which all municipalities shall vote upon the dis-
36 solution agreement submitted to them. The elec-
37 tion shall be held as soon as practicable and the
38 state board shall attempt to set the date of the
39 vote to coincide with a statewide election.

1 B. At least 35 days before the date set in para-
2 graph A, the board of directors shall give writ-
3 ten notice by registered or certified mail to the
4 town or city clerk of each municipality having a
5 right to vote on the dissolution agreement.

6 C. The town or city clerk shall immediately
7 notify the municipal officers upon receipt of the
8 notice, and the municipal officers shall meet and
9 immediately issue a warrant for a special town
10 meeting or city election, as the case may be, to
11 be held on the date designated by the state
12 board. No other date may be used.

13 D. In the respective warrants, the municipal
14 officers shall direct that the polls shall be
15 open at 10 o'clock in the forenoon and shall
16 remain open until 8 o'clock in the afternoon.

17 6. Public hearing; voting procedures. The fol-
18 lowing requirements apply to the voting procedures.

19 A. At least 10 days before the election, a
20 posted or otherwise advertised public hearing on
21 the dissolution question shall be held by the
22 municipal officers.

23 B. Except as otherwise provided in this section,
24 the voting at the meetings held in towns shall be
25 conducted in accordance with Title 30, sections
26 2061 and 2062, even ~~though~~ if the town has towns
27 have not accepted the provisions of Title 30,
28 section 2061.

29 C. The voting at the meeting held in cities
30 shall be conducted in accordance with Title 21.

31 7. Article. The article shall be in the follow-
32 ing form.

33 "Article : Shall School Administrative Dis-
34 trict No. be dissolved subject to the
35 terms and conditions of the dissolution agreement
36 dated 19 ?

37 Yes No "

1 8. Ballots; posting of agreement. The dissolu-
2 tion agreement need not be printed on the ballot.
3 Copies of the agreement shall be posted in each
4 participating municipality in the same manner as
5 specimen ballots are posted under Title 30, chapter
6 207.

7 9. Restriction on dissolution petitions. No
8 participating municipality within a district which
9 has voted on a petition for dissolution may petition
10 for dissolution within 2 years after the date of ~~the~~
11 that vote or the date of a district vote on the dis-
12 solution if that is a more recent vote.

13 10. Costs of dissolution agreements and reim-
14 bursement. Costs incurred shall comply with the fol-
15 lowing.

16 A. The expense of employment of competent advi-
17 sors in preparing the agreement of dissolution
18 shall be paid by the ~~state board~~ town petitioning
19 for dissolution.

20 B. If the school administrative district votes
21 not to permit dissolution, the municipality peti-
22 tioning for dissolution shall ~~reimburse the state~~
23 ~~board not be reimbursed~~ for its expenses. If the
24 school administrative district votes to permit
25 dissolution, the school administrative district
26 shall reimburse the ~~state board~~ petitioning
27 municipality for the reasonable expenses it
28 incurred pursuant to paragraph A.

29 11. Determination of vote. The town and city
30 clerks shall, within 24 hours of determination of the
31 result of the vote in their respective municipali-
32 ties, certify the total number of votes cast in the
33 affirmative and the total number of votes cast in the
34 negative on the article to the board of directors.

35 12. Determination of results; notification of
36 state board; execution of agreement. Determination
37 of results shall comply with the following.

38 A. Upon receipt of the results of the voting
39 from all municipalities, the board of directors
40 shall meet and shall compute and record the total

1 number of votes cast in the municipalities ~~within~~
2 ~~the school administrative district~~ in the affirm-
3 ative and ~~the total number of votes cast~~ in the
4 negative on the dissolution article ~~submitted~~.

5 B. The board of directors shall notify the state
6 board by ~~certified~~ registered mail ~~or by hand~~
7 delivery of the results of the vote.

8 C. If the state board finds that a majority of
9 the voters voting on the article have voted in
10 the affirmative, it shall notify the directors of
11 the district to ~~execute~~ immediately take steps to
12 dissolve the district in accordance with the
13 terms of the agreement for dissolution.

14 13. Recount; checklists and ballots; disputed
15 ballots. The following provisions apply to recounts,
16 checklists, ballots and disputed ballots.

17 A. If, within 7 days of the computation and
18 recording of the results of the voting from all
19 municipalities, the municipal officers of any
20 participating municipality request to the commis-
21 sioner in writing a recount of the votes in the
22 district, the commissioner shall immediately
23 cause the checklists and all the ballots cast in
24 all of the participating ~~municipalities~~ municipal-
25 ities to be collected and kept at the commis-
26 sioner's office so they may be recounted by inter-
27 ested municipalities.

28 B. The town clerks of the participating munici-
29 palities are authorized to deliver the checklists
30 and ballots to the commissioner, notwithstanding
31 any other provision of law to the contrary.

32 C. The commissioner shall resolve any question
33 with regard to disputed ballots.

34 14. Execution of agreement; certified record;
35 certificate of withdrawal. When the agreement for
36 dissolution has been ~~executed~~ put into effect by the
37 directors of the school administrative district, the
38 directors shall notify the state board by certified
39 mail that the agreement of dissolution has been exe-
40 cuted.

1 A. A complete certified record of the trans-
2 action involved in the dissolution shall be filed
3 with the state board.

4 B. The state board shall immediately issue a
5 certificate of dissolution to be sent by certi-
6 fied mail for filing with the directors of the
7 school administrative district and shall file a
8 copy in the office of the Secretary of State.

9 15. Indebtedness; indebtedness defined;
10 indebtedness after dissolution. The following provi-
11 sions apply to outstanding indebtedness.

12 A. Whenever a district having outstanding
13 indebtedness dissolves, the district shall remain
14 intact for the purpose of securing and retiring
15 the indebtedness; the dissolution agreement may
16 provide for alternate means for retiring out-
17 standing indebtedness.

18 B. "Outstanding indebtedness" means bonds or
19 notes for school construction projects issued by
20 the board of directors pursuant to the authoriza-
21 tion established under chapter 609 or Title 20,
22 sections 3457 to 3460 or obligations to the Maine
23 School Building Authority pursuant to any con-
24 tract, lease or agreement made by the board of
25 directors pursuant to approval thereof in a dis-
26 trict meeting of the school administrative dis-
27 trict, but does not include any indebtedness of
28 any municipality assumed by the school adminis-
29 trative district at the time of formation nor any
30 contract, lease or agreement of the Maine School
31 Building Authority to which by operation of law
32 the school administrative district has become the
33 assignee.

34 16. General purpose aid. When a school adminis-
35 trative district dissolves the general purpose aid
36 for the individual municipalities shall be computed
37 in accordance with chapter 605.

38 17. Failure to comply with statute. If the
39 state board determines that the dissolution committee
40 has failed to comply with the requirements of this
41 statute, it may take whatever steps it deems appro-

1 priate to present a dissolution agreement to the
2 voters including, but not limited to, dissolving the
3 committee and appointing a new committee or preparing
4 the dissolution agreement. Any action taken by the
5 state board under this subsection shall be final and
6 binding.

7 Sec. 2. 20-A MRSA §1404, sub-§6, as enacted by
8 PL 1981, c. 693, §§5 and 8, is amended to read:

9 6. Outstanding indebtedness of school adminis-
10 trative district; liability of individual municipali-
11 ties. If the school administrative district is dis-
12 solved and the ensuing community school district does
13 not include all grades kindergarten through grade 12,
14 each member municipality shall be individually liable
15 for any outstanding indebtedness which the school
16 administrative district had relative to the grades
17 which will be operated exclusively by that municipal-
18 ity or as otherwise provided for in the dissolution
19 agreement.

20 Sec. 3. 20-A MRSA §1405, as enacted by PL 1981,
21 c. 693, §§5 and 8, is repealed and the following
22 enacted in its place:

23 §1405. Withdrawal of a single municipality from a
24 school administrative district

25 1. Petition. The residents of a participating
26 municipality within a school administrative district
27 composed of 3 or more municipalities may petition to
28 withdraw from the district in the same manner as they
29 would petition for the dissolution of a school admin-
30 istrative district in accordance with section 1403,
31 except that only a simple majority vote of those
32 casting valid ballots in the municipality is required
33 before the petition may be presented to the board of
34 directors and to the state board.

35 2. Procedure. The steps set forth in section
36 1403 for dissolution apply to the withdrawal of a
37 member municipality from a school administrative dis-
38 trict, except that the responsible committee for
39 preparing the withdrawal agreement will be limited to
40 individuals from the municipality. Instead of a dis-
41 trict election, a municipal election shall be con-

1 ducted and a 2/3 vote of those casting valid ballots
2 in the municipality is required before it may with-
3 draw. Wherever there is reference in the provisions
4 of section 1403 to the term "dissolution" or other
5 terms not consistent with withdrawal, the term "with-
6 drawal" or other appropriate language shall be sub-
7 stituted. All public hearings required under section
8 1403 shall be conducted by the municipal officers.

9 3. Cost of advisors. The expense of employing
10 competent advisors by the municipality petitioning to
11 withdraw shall be borne by the municipality and the
12 expense of employing competent advisors by the dis-
13 trict shall be borne by the district with the munici-
14 pality bearing its share according to the district's
15 cost-sharing agreement.

16 4. Mandatory dissolution. If a member town
17 representing more than 50% of the total population in
18 a district votes to withdraw from the district, then
19 the state board will analyze the educational impact
20 of the town's withdrawal upon the district. If the
21 board finds that the remaining towns are not able to
22 continue as a district, then the district will be
23 declared to be dissolved. The dissolution process
24 set out in section 1403 will apply except as it
25 relates to the petition process and to the vote of a
26 petitioning municipality. Costs of preparing the
27 dissolution agreement shall be borne solely by the
28 district notwithstanding section 1403, subsection 10.

29 Sec. 4. 20-A MRSa §1406, sub-§2, as enacted by
30 PL 1981, c. 693, §§5 and 8, is amended to read:

31 2. Transfer agreement. The boards of directors
32 of the 2 districts and the municipal officers of the
33 municipality involved shall form a committee to pre-
34 pare the a transfer agreement within a period of 60
35 days after being authorized notified by the commis-
36 sioner to prepare the agreement. Extensions of time
37 may be granted by the commissioner.

38 A. The committee shall consider the standards
39 set forth in section 1403, subsection 4, para-
40 graph A in preparing the agreement.

1 B. The approval process for the agreement shall
2 follow the steps set forth in section 1403, sub-
3 section 4 to subsection 16.

4 C. The following question shall appear on the
5 ballot when the transfer of a municipality is
6 considered.

7 "Article : Shall School Administrative Dis-
8 trict No. vote to permit the municipality of
9 to transfer into School
10 Administrative District No. as a parti-
11 cipating municipality of that district subject to
12 the terms and conditions of the agreement of
13 transfer approved by the State Board of Education
14 dated 19 ?

15 Yes No "

16 (A copy of the agreement shall be posted with
17 each warrant which directs the citizens to vote
18 upon the question.)

19 D. The article must be approved by a majority of
20 votes cast in ~~the district~~ both districts and by
21 a majority of votes cast in the municipality to
22 be transferred before the agreement may take
23 effect.

24 E. A complete certified record of the trans-
25 action involved in the transfer shall be filed
26 with the state board. The state board shall
27 issue immediately a certificate of transfer to
28 the secretary of each school administrative dis-
29 trict by registered mail to be filed with the
30 directors of the districts involved and shall
31 file a copy of the certificate of transfer in the
32 office of the Secretary of State.

33 Sec. 5. 20-A MRSA §1407, as enacted by PL 1981,
34 c. 693, §§5 and 8, is amended to read:

35 §1407. Closing an elementary school

36 1. Vote; costs of election. An elementary
37 school in a member municipality of a school adminis-
38 trative district may not be closed unless the voters

1 in the member town vote on the following article in
2 accordance with the procedure set forth in sections
3 1351 to 1354.

4 "Article : Shall the board of directors of
5 School Administrative District No. be
6 authorized to close ?
7 (name of school)

8 Yes No "

9 (The election shall be conducted only within that
10 member municipality and the costs of the election
11 shall be borne by the district.)

12 2. Expense of keeping the school open. If the
13 voters vote to keep the school open, the member
14 municipality shall be liable for any additional
15 expense for operating costs, transportation costs,
16 and minor capital costs as defined in section 15503,
17 which exceed by 10% the expense of the district for
18 the operating costs, transportation costs, and minor
19 capital costs as compared on a per pupil basis in the
20 base year. The determination of costs shall be sub-
21 ject to the approval of the commissioner. Any addi-
22 tional costs which must be borne by the member munic-
23 ipality shall be part of the article presented to the
24 voters at the meeting to determine whether the school
25 should remain open.

26 STATEMENT OF FACT

27 The bill requires maximum cost to be part of
28 petition. It also requires that the initial article
29 on dissolution (withdrawal) contain a maximum amount
30 of money that the dissolution committee is authorized
31 to spend. A positive vote on the article is also a
32 vote to raise and appropriate this money.

33 The bill provides for each community involved in
34 a dissolution to have an equal number of members on
35 the dissolution committee. It also states that mem-
36 bers of the dissolution committee who are municipal
37 officers and directors of the School Administrative
38 District serve on the committee only so long as they
39 hold their respective offices. Finally, it limits

1 the employment of competent advisors to the fiscal
2 limit authorized by the voters.

3 The new school committee shall not be elected at
4 the same time as the dissolution vote unless the
5 state board determines there are extenuating circum-
6 stances which necessitate simultaneous elections.

7 Changes in the agreement made by the state board
8 shall be based on the board's findings of whether the
9 contents will provide for appropriate educational and
10 related services.

11 On dissolution, the chairman of the board of
12 directors will conduct all public hearings.

13 The bill clarifies the requirement that an agree-
14 ment receive conditional approval from the state
15 board before it goes to a public hearing. This re-
16 stricts a municipality that has voted unsuccessfully
17 on a petition for dissolution from being able to
18 submit another petition for a period of 2 years.

19 The bill places the burden of paying for compe-
20 tent advisors on the town petitioning for dissolu-
21 tion.

22 If a successful vote on dissolution occurs, the
23 district will reimburse the petitioning municipality
24 for its expenses. This gives the state board the
25 authority to take whatever action is necessary to get
26 an agreement to the voters, if the board determines
27 that the dissolution committee has failed to comply
28 with the statutes.

29 The bill requires that all public hearings on
30 withdrawal will be conducted by the municipal offi-
31 cers and grants the state board the authority to
32 determine if the towns remaining in a district after
33 the withdrawal of the largest municipality should
34 continue as a district.

35

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