

MAINE STATE LEGISLATURE

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Asa A. Gordon, Dir., School Admin.
Services

Education

John W. Benoit, Assistant

Attorney General

Voting Procedures in Formation of School Administrative Districts.

FACTS:

By statute, the State Board of Education is charged with the duty of participating in the formation of school administrative districts. 20 M.R.S.A. § 216. Because the formation of each school administrative district involves the expenditure of considerable State monies, and because such district formation concerns the district educational pattern for the State of Maine (not to mention the fact of the reliability of subsequent bond issues sold by school administrative districts), the State Board of Education intends to be doubly certain of the validity of the procedures followed by administrative units in district formation. Inasmuch as the State Board of Education is required to issue its certificate of organization evidencing the formation of a school administrative district, the Board needs to be certain that the statutory procedures have been followed by the participating administrative units.

QUESTIONS:

1. Under the provisions of section 215 of Title 20, subsection 4, does the last part of the opening paragraph, ". . . all administrative units shall vote on the remaining articles on the questions of school district formation in the same fashion as the units conduct other business at regular or special town meetings. . . ." mean that the articles relating to the formation of a district must be voted upon at open town meeting since this is the method of conducting town business at regular or special town meetings?

2. It is recognized that the voters at a town meeting may determine voting procedure either by hand, by voice, by written ballot, by standing vote, or a written ballot with a check list. Since the word "shall" is used in subsection 4, does this mean that in voting on articles relating to district formation the secret ballot method authorized by Title 30, section 2061, subsection 4, may not be used?

3. Under the provisions of section 215, subsection 3, the municipal officers and school committee members of a proposed district make a determination as to the number of directors and the representation from each town. Following this determination, may citizens from a town take out nomination papers to run for a director's position in the proposed school administrative district immediately, or must they wait until after a warrant has been posted?

4. When a director representing a particular municipality is to be elected for a proposed district, may the election take place before action on the articles for formation or must the election take place after action on the articles of formation?

ANSWERS:

See REASON.

REASON:

In answer to your first question, we do inform you that P. L. 1965, c. 194, amended 20 M.R.S.A. § 215, subsection 4, so as to permit an administrative unit, notwithstanding that the administrative unit may have adopted the secret ballot procedure for the purpose of electing town officials, to vote upon certain of the questions regarding school administrative district formation in the same manner as the administrative unit would conduct other business. The Legislature enacted the reference amendment so as to remove doubt from the statute concerning school administrative district formation. Formerly, it was believed that each of the articles to be voted upon must be voted upon only by the secret ballot procedure. The subject amendment works a change in that arrangement so as to permit the administrative unit to vote in the same fashion as it would vote on other business.

We answer your second question in the negative. 20 M.R.S.A. § 215, as amended by P. L. 1965, c. 194, contains no language restricting the use of 30 M.R.S.A. § 2061, subsection 4. In other words, the posture of the present law is that an administrative unit may exercise an option regarding the manner of voting upon the several articles of formation, i.e., open town meeting procedure or that procedure set forth in 30 M.R.S.A. § 2061, subsection 4. Of course, the procedure set forth in the reference section (30 M.R.S.A. § 2061, 4) must be followed relative to the provisions regarding time.

In answer to your third question, citizens of a participating town desiring to run for a director's position may take out nominating papers before the warrant is posted; providing that the State Board of Education has issued the order specified in 20 M.R.S.A. § 215, subsection 4. We are mindful of the language appearing in 20 M.R.S.A. § 302 wherein the Legislature has denominated that "for the purposes of nominations, school directors shall be considered municipal officers and shall be nominated in accordance with Title 30, c. 207 or in accordance with a municipal charter, whichever is applicable."

In answer to question four, the administrative unit may either hold the election of the directors prior to taking action on the other articles for formation or may consider the articles of formation before electing the district directors. A reading of the laws relating to public schools does not indicate that an administrative unit must take action on the articles of formation prior to the election of the directors; and there is no magic in such an arrangement for the reason that the outcome of the vote of organization in a proposed administrative school district is not officially known nor effective until the provisions specified in 20 M.R.S.A. § 215 have occurred.

John W. Benoit
Assistant Attorney General

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